



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE RD. SUITE 210
LISLE, IL 60532-4352

July 15, 2020

EA-19-138

Mr. Peter Dietrich, Senior VP
and Chief Nuclear Officer
DTE Energy Company
Fermi-2 – 260 TAC
6400 North Dixie Highway
Newport, MI 48166

SUBJECT: FERMI NUCLEAR POWER PLANT, UNIT 2 - NOTICE OF VIOLATION; NRC
INVESTIGATION REPORT NO. 3-2019-004; NRC INSPECTION REPORT
NO. 05000341/2020404

Dear Mr. Dietrich:

This letter refers to the U.S. Nuclear Regulatory Commission (NRC) security baseline inspection completed on November 18, 2019, at your Fermi Nuclear Power Plant, Unit 2 facility (Fermi 2). The details of the inspection were documented in NRC Security Baseline Inspection Report No. 05000341/2020403 (Non-Public) issued on April 29, 2020. On February 21, 2019, NRC's Office of Investigations (OI), Region III Field Office initiated an investigation that it completed on November 18, 2019. The purpose of the investigation, in part, was to determine whether a licensee manager at Fermi 2 deliberately caused the licensee to violate NRC requirements by assigning tasks to an administrative assistant who was not qualified or authorized to perform those tasks.

Based on the results of the inspection and investigation, the NRC identified apparent violations of NRC requirements. The circumstances surrounding the apparent violations, the significance of the issues, and the need for lasting and effective corrective actions were discussed with members of your staff at the inspection exit meeting on April 29, 2020.

In our April 29, 2020, letter (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20120A443) transmitting the inspection report, we provided you with the opportunity to address the apparent violations identified in the report by attending a predecisional enforcement conference, requesting Alternative Dispute Resolution (ADR) mediation, or providing a written response before we made our final enforcement decision. In a letter dated May 29, 2020, (ML20150A598) you provided a written response to the apparent violations.

Based on the information developed during the inspection and investigation, and the information that you provided in your response to the inspection report dated May 29, 2020, the NRC has determined that violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation (Notice) (Enclosure 1) (Non-Public) and the circumstances surrounding them are described in detail in the subject inspection report. The violations involve a

Enclosures 1 and 2 contain Sensitive
Unclassified Non-Safeguards Information.
When separated from Enclosures 1 and 2,
this transmittal document is decontrolled.

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licensee manager at Fermi 2 who deliberately assigned his administrative assistant the task of recording monthly verifications required by NRC regulations when this individual was not authorized or qualified to perform those verifications. These circumstances occurred from July 26, 2018, until their identification on January 16, 2019.

The violations are of concern to the NRC for the reasons stated in the Final Determination of Significance (Enclosure 2) (Non-Public). Therefore, these violations are categorized collectively in accordance with the NRC Enforcement Policy as a Severity Level III problem. In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$150,000 is considered for a Severity Level III problem.

Because the violations were deliberate, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. The NRC determined that credit for *Identification* was warranted because your staff identified the violations and notified the NRC of the issues on January 16 and 25, 2019. In NRC Inspection Report No. 05000341/2020403, the NRC described its understanding of the actions implemented to correct the violations. In your May 29, 2020, letter you described the corrective actions taken to correct the violations. These corrective actions are also documented in Enclosure 2. Based on these corrective actions, the NRC has determined that *Corrective Action* credit is warranted. Therefore, to encourage prompt identification and comprehensive correction of violations, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice and to not propose a civil penalty for these violations. However, significant violations in the future could result in a civil penalty.

The NRC has concluded that information regarding: (1) the reason for the violations; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in Inspection Report No. 05000341/2020403 and in your letter dated May 29, 2020. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with Title 10 of the *Code of Federal Regulations* (CFR) 2.390 of the NRC's "Rules of Practice and Procedure," a copy of this letter will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's ADAMS, accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. You should also be aware that all final NRC documents, including the final OI investigation report, are official agency records and may be made available to the public under the Freedom of Information Act (FOIA), subject to redaction of certain information in accordance with the FOIA

However, the enclosures to this letter contain Security-Related Information in accordance with 10 CFR 2.390(d)(1), and its disclosure to unauthorized individuals could present a security vulnerability. Therefore, the material in the enclosures will not be made available electronically for public inspection in the NRC Public Document Room or in the NRC's ADAMS. If you choose to respond and Security-Related Information is necessary to provide an acceptable response, please mark the top of each page of your entire response "Security-Related Information – Withhold from Public Disclosure under 10 CFR 2.390" and follow the instructions for withholding in 10 CFR 2.390(b)(1).

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In accordance with 10 CFR 2.390(b)(1)(ii), the NRC is waiving the affidavit requirements for your response.

If you have any questions concerning this matter, please contact Jamnes Cameron, Enforcement/Investigations Officer, at 630-810-4373.

Sincerely,

/RA/

John B. Giessner
Regional Administrator

Docket No. 050-00341
License No. NPF-43

Enclosures:

1. Notice of Violation (Non-Public)
2. Determination of Severity Level and Description
of Corrective Actions (Non-Public)

Letter to Peter Dietrich from John B. Giessner dated July 15, 2020

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¹ Concurrence for OE, NSIR, and NLO from OGC received by D. Furst email dated July 13, 2020.