



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION II
245 PEACHTREE CENTER AVENUE NE, SUITE 1200
ATLANTA, GEORGIA 30303-1257

June 22, 2011

EA-11-018

Mr. Preston D. Swafford
Executive Vice President and Chief Nuclear Officer
Tennessee Valley Authority
1101 Market Street, LP 3R
Chattanooga, TN 37402-2801

**SUBJECT: RESPONSE TO APPEAL OF FINAL SIGNIFICANCE DETERMINATION OF A
RED FINDING AND REPLY TO NOTICE OF VIOLATION**

Dear Mr. Swafford:

This refers to your letter of June 8, 2011, in which you appealed the Nuclear Regulatory Commission's (NRC) Final Significance Determination for a Red Finding and Notice of Violation (NOV) for Browns Ferry Plant (BFN) Unit 1, described in NRC Inspection Report 05000259/2011008, dated May 9, 2011. The NOV identified non-compliances with Technical Specification (TS) 3.5.1, Emergency Core Cooling System (ECCS) – Operating, from March 13, 2009, to October 23, 2010. During this time a Unit 1 low pressure ECCS injection/spray subsystem was inoperable while the reactor was operating in Modes 1, 2 and 3, and the subsystem was not restored to operable status within seven days, nor were action statement Conditions A and B met within the required time. Specifically, the Unit 1 Residual Heat Removal Loop II subsystem was inoperable because of failure to maintain the Unit 1 outboard low pressure coolant injection (LPCI) valve 1-FCV-74-66 in an operable condition, which rendered a low pressure ECCS injection/spray subsystem (the RHR loop II subsystem) inoperable while Unit 1 was operating in Mode 1. The issue was characterized as Red using the applicable significance determination process (SDP).

In your letter, you acknowledged the high safety significance of this degraded condition and indicated that TVA has planned corrective actions to reduce the fire risk that contributed to the significance of the valve failure. You also indicated that actions are being taken by TVA to enhance the in-service testing (IST) program related to the issues raised by the NRC. Your letter indicated that the basis for the appeal was:

- “The NRC’s SDP was inconsistent with the applicable guidance or lacked justification – because no performance deficiency was involved, and
- New information is available to address the revised performance deficiency related to the adequacy of BFN’s IST Program. The information was not presented at the regulatory conference only because BFN’s IST Program had not been raised by the NRC as a performance deficiency and was not discussed.”

The NRC reviewed the information contained in your letter of June 8, 2011, in accordance with Inspection Manual Chapter 0609, Attachment 2. During our review, the staff acknowledged that TVA's contentions concerning the NRC's characterization of the inspection finding were focused on the performance deficiency, and not the application of SDP guidance or justification for the significance determination of the finding. Additionally, a review of the information contained in your letter revealed no new information that was not previously considered during the final significance determination of this finding. Therefore, I have concluded that your appeal does not meet the merit guidelines contained in Section 3, Limitations, of Inspection Manual Chapter 0609, Attachment 2.

Although the pertinent issues you raise in your letter of June 8, 2011, were considered during our final significance determination for the red finding, I have directed an independent review to provide the NRC with additional assurance that appropriate regulatory actions are taken for this finding. TVA will be informed of the results of this independent review and the final NRC decision regarding this matter in August 2011. In the interim, Unit 1 at BFN remains in the Multiple/Repetitive Degraded Cornerstone Column (Column 4) of the Action Matrix, and the NRC will continue to plan associated follow-up activities.

In addition, your letter indicates that other licensees understand and implement ASME Operation and Maintenance Code Section ISTC 4.1 in a similar manner to TVA. The NRC recognizes the potential generic implications associated with this issue, and has initiated actions to address this issue separately.

In your letter you also request that the NRC approve a deviation from the Action Matrix for this finding. You assert that entering this finding in the ROP Action Matrix would lead to an inappropriate level of regulatory attention and diversion of licensee resources and management focus. The process described in NRC Inspection Manual Chapter (IMC) 0305, Section 12.06, permits deviations from the Action Matrix in those rare cases where application of the normal ROP processes do not result in an appropriate regulatory response. In this case, a finding with a delta CDF of greater than E-4, resulting in placement in Column 4 of the action matrix, and the performance of a IP 95003 supplemental inspection, is the regulatory outcome envisioned when the NRC developed the ROP. Thus, a deviation is not appropriate in this case.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

TVA

3

Should you have any questions concerning this letter, please contact Mr. Eugene F. Guthrie, at (404) 997-4662.

Sincerely,

/RA/

Victor M. McCree
Regional Administrator

Docket No.: 50-259
License No.: DPR-33

cc: (See page 4)

TVA

3

Should you have any questions concerning this letter, please contact Mr. Eugene F. Guthrie, at (404) 997-4662.

Sincerely,

/RA/

Victor M. McCree
Regional Administrator

Docket No.: 50-2596

License No.: DPR-33

cc: (See page 4)

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Letter to P. D. Swafford from Victor M. McCree dated June 22, 2011

SUBJECT: RESPONSE TO APPEAL OF FINAL SIGNIFICANCE DETERMINATION OF A
RED FINDING AND REPLY TO NOTICE OF VIOLATION

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