

~~OFFICIAL USE ONLY — SECURITY RELATED INFORMATION~~

January 11, 2012

EA-11-046

Mr. George H. Gellrich, Site Vice President
Constellation Energy Nuclear Group, LLC
Calvert Cliffs Nuclear Power Plant, LLC
1650 Calvert Cliffs Parkway
Lusby, MD 20657-4702

SUBJECT: CALVERT CLIFFS NUCLEAR POWER PLANT - NRC INVESTIGATION
REPORT NO. 1-2011-015

Dear Mr. Gellrich:

On August 30, 2011, the U. S. Nuclear Regulatory Commission (NRC) issued you a Final Significance Determination for a greater than green security finding (ML112430514). Our letter noted that Constellation Energy Nuclear Group, LLC (Constellation) had taken immediate corrective actions to address any security-related vulnerability associated with the finding. Our letter also stated that any enforcement action for related violation(s) would be handled by separate correspondence at a later date. The letter did not divulge the nature of the security-related issues because it is considered to be sensitive information and therefore was included as a non-public enclosure.

On September 29, 2011, the NRC's Office of Investigations (OI) completed an investigation to determine whether acts associated with the finding were willful. Based on evidence gathered during the OI investigation, the NRC concluded that willful acts were associated with the finding. Specifically, one individual deliberately caused violation(s) of NRC requirements, and three other individuals willfully, with careless disregard, caused your facility to be violation of NRC requirements. In addition, other individuals working in the security department may have been aware that NRC requirements were being violated and may have caused violation(s) of NRC requirements; however, the NRC was unable to substantiate willfulness on their parts. These conclusions were based on evidence gathered by individual testimonies to what their state of mind was at the time the violation(s) occurred. An investigation Factual Summary is included in a non-public enclosure to this letter and includes the basis for the NRC conclusions on willfulness.

The enclosure transmitted herewith contains Sensitive Unclassified Non-Safeguards Information. When separated from the enclosure, this transmittal document is DECONTROLLED.

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Based on the results of this investigation, apparent violation(s) were identified and is (are) being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The issues are described in a non-public enclosure to this letter.

Before the NRC makes its enforcement decision, we are providing you an opportunity to (1) respond to the apparent violation(s) addressed in the enclosure to this letter within 30 days of the date of this letter, (2) request a Pre-decisional Enforcement Conference (PEC), or (3) request Alternative Dispute Resolution (ADR). If a PEC is held, it will be closed to public observation since Security Related Information will be discussed. If you decide to participate in a PEC or pursue ADR, please contact Mr. James Trapp at 610-337-5186 within 10 days of the date of this letter. A PEC should be held within 30 days and an ADR session within 45 days of the date of this letter.

If you choose to provide a written response, it should be clearly marked as a "Response to (An) Apparent Violation(s); EA-11-046" and should include for each apparent violation: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken to avoid further violations; and (4) the date when full compliance will be achieved. Your response may reference or include previously docketed correspondence. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision. In addition, if you choose to provide a written response, please mark your entire response "Security Related Information-Withhold from Public Disclosure under 10 CFR 2.390." In accordance with 10 CFR 2.390(b) (1)(ii), the NRC is waiving the affidavit requirements for your response to this letter. If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

If you choose to request a PEC, the conference will afford you the opportunity to provide your perspective on the apparent violation(s) and any other information that you believe the NRC should take into consideration before making an enforcement decision. The topics discussed during the conference may include the following: information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned to be taken. In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violation(s).

In lieu of a PEC, you may also request ADR with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral (the "mediator") works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the

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NRC's program can be obtained at <http://www.nrc.gov/about-rc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third party. Please contact ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.

In addition, please be advised that the number and characterization of apparent violation(s) described in the enclosure may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The enclosures to this letter contain Sensitive Unclassified Security Information and therefore will not be publically available because their disclosure to unauthorized individuals could present a security vulnerability. The enclosures to this letter must be protected from unauthorized disclosure in accordance with Regulatory Information Summary RIS-2005-031, "Control of Security-Related Sensitive Unclassified Non-Safeguards Information" (ML053480073), which is available on the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions concerning this matter, please contact Mr. James M. Trapp of my staff at 610-337-5186.

Sincerely,

/RA/

Christopher G. Miller, Director
Division of Reactor Safety

Docket No. 50-317; 50-318
License No. DPR-53; DPR-69

Enclosures: 1. Factual Summary
2. Apparent Violation(s)

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License No. DPR-53; DPR-69

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2. Apparent Violation(s)

SUNSI Review Complete: JMT (Reviewer's Initials)

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*See prior concurrence

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**NLO Factual Summary only, per email to ADeFrancisco.

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cc w/encl; w/OUO:

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T. Levering, Emergency Response Director, State of Maryland

A. Lauland, Homeland Security Advisor, State of Maryland

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