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Dated at Rockville, Maryland, this 22nd day of August, 2005.

For the Nuclear Regulatory Commission.

Brenda L. Mozafari,

Senior Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[IA-05-007]

In the Matter of Joseph Guariglia; Confirmatory Order (Effective Immediately)

I

Mr. Joseph Guariglia (Mr. Guariglia) is employed by Nine Mile Point Nuclear Station, LLC, at the Nine Mile Point Nuclear Station. The facility is located in Lycoming, NY. In June 2000, Mr. Guariglia was a fire protection supervisor at the facility.

II

Following the receipt of information in January 2004, an investigation was initiated by the NRC's Office of Investigations (OI), Region I, on February 3, 2004, at the Nine Mile Point Nuclear Station. This investigation was initiated to determine whether Mr. Guariglia deliberately violated conditions of the Nine Mile Point Unit 2 license by compromising an unannounced fire drill in June 2000. Based on the evidence developed during its investigation, OI substantiated that Mr. Guariglia deliberately compromised the unannounced fire drill in June 2000. Mr. Guariglia was informed of the NRC finding in a letter dated March 18, 2005.

III

In response to the NRC's March 18, 2005 letter, Mr. Guariglia requested the use of Alternative Dispute Resolution (ADR) to resolve this matter. ADR is a process in which a neutral mediator, with no decision-making authority, assisted the NRC and Mr. Guariglia to resolve any disagreements on whether a violation occurred, the appropriate enforcement action, and the appropriate corrective actions. An ADR session was

held between Mr. Guariglia and the NRC in Philadelphia, PA, on June 22, 2005, and was mediated by a professional mediator, arranged through Cornell University's Institute of Conflict Management. During that ADR session, a settlement agreement was reached. The elements of the settlement agreement consisted of the following:

1. The NRC determined that a violation occurred when an unannounced fire drill at Nine Mile Point Unit 2 was compromised in June 2000. This was contrary to technical specifications and 10 CFR Part 50, Appendix R, which require that persons planning and authorizing an unannounced fire drill shall ensure that the responding shift fire brigade members are not aware that a fire drill is being planned until it is begun.

2. The NRC maintains that Mr. Guariglia deliberately compromised the fire drill when he called the fire brigade leader to inform him of its time and location. Because Mr. Guariglia's deliberate actions placed Nine Mile Point 2 in violation of NRC requirements, Mr. Guariglia was in violation of 10 CFR 50.5. Mr. Guariglia maintains that he does not recall the specifics associated with this fire drill. However, in light of the evidence available, Mr. Guariglia agreed that the fire drill was compromised and agreed that he was in violation of 10 CFR 50.5.

3. Mr. Guariglia, subsequent to the identification of this violation, will take actions to assure that he learned from this violation and provide the NRC with assurance that it will not recur. These actions include (a) writing an article to share with the Constellation fleet that explains the importance of following procedural requirements, maintaining the integrity of unannounced fire drills, and maintaining a questioning attitude to verify and validate decisions and (b) prior to December 31, 2005, participating in a stand-down meeting with appropriate fire protection staff and describing the lessons learned from the compromised fire drill and the importance of raising concerns when an issue does not comply with requirements.

4. In light of Mr. Guariglia's agreement to Items 1 and 2 and the actions he will take as described in Item 3, the NRC agrees to issue a Notice of Violation without a specified severity level, to Mr. Guariglia. The NRC will place the Notice of Violation, which will be publically available in ADAMS, on the NRC "Significant Enforcement Actions—Individuals" website. The Notice of Violation will be placed on the "Significant Enforcement Actions—

Individuals" Web site no longer than 1 year.

5. Mr. Guariglia agreed to issuance of a Confirmatory Order confirming this agreement.

IV

Since Mr. Guariglia has agreed to take additional actions to address NRC concerns, as set forth in Section III above, the NRC has concluded that its concerns can be resolved through the NRC's confirmation of the commitments as outlined in this Confirmatory Order.

I find that Mr. Guariglia's commitments as set forth in Section III above are acceptable. However, in view of the foregoing, I have determined that these commitments shall be confirmed by this Confirmatory Order. Based on the above and Mr. Guariglia's consent, this Confirmatory Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 50, *It is hereby ordered, that prior to December 31, 2005:*

1. Mr. Guariglia shall write an article to share with the Constellation fleet that explains the importance of following procedural requirements, maintaining the integrity of unannounced fire drills, and maintaining a questioning attitude to verify and validate decisions.

2. Mr. Guariglia shall participate in a stand-down meeting with appropriate fire protection staff and describe the lessons learned from the compromised fire drill and the importance of raising concerns when an issue does not comply with requirements.

3. Mr. Guariglia shall notify the NRC, in writing, within 30 days of completion of the actions described in Items 1 and 2 above.

The Director, Office of Enforcement, may relax or rescind, in writing, any of the above conditions upon a showing by Mr. Guariglia of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than Mr. Guariglia, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and must include a statement of good cause for the extension. Any request for a hearing shall be submitted

to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Rulemaking and Adjudications Staff, Washington, DC 20555. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement, to the Director of the Division of Regulatory Improvement Programs at the same address, and to Mr. Guariglia. Because Mr. Guariglia's home address has been deleted pursuant to 10 CFR 2.390, his copy should be provided to the NRC Office of Enforcement who will forward it to Mr. Guariglia. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov and also to the Office of the General Counsel by means of facsimile transmission to 301-415-3725 or e-mail to OGCMailCenter@nrc.gov. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order shall be sustained. An answer or a request for a hearing shall not stay the effectiveness date of this Order.

Dated this 18th day of August, 2005.

For the Nuclear Regulatory Commission.

Michael Johnson,

Director, Office of Enforcement.

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NUCLEAR REGULATORY COMMISSION

[DOCKET NO. 72-17]

Portland General Electric Company, Trojan Nuclear Plant, Independent Spent Fuel Storage Installation; Notice of Consideration of Approval of Proposed Corporate Restructuring and Opportunity for a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of consideration of approval of proposed corporate

restructuring and opportunity for hearing.

FOR FURTHER INFORMATION CONTACT:

Christopher M. Regan, Senior Project Manager, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415-1179; fax number: (301) 415-1179; e-mail: cmr1@nrc.gov.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (the Commission or NRC) is considering the issuance of an order under 10 CFR 72.50 approving the indirect transfer of Special Nuclear Materials (SNM) License No. SNM-2509 for the Trojan Independent Spent Fuel Storage Installation (ISFSI). The indirect transfer has been requested by Portland General Electric Company (PGE) and Stephen Forbes Cooper, LLC. (SFC), as Disbursing Agent on behalf of the Reserve for Disputed Claims (Reserve), to facilitate implementation of the transfer of 100% of PGE's common stock held by the Enron Corporation (Enron) to the creditors of Enron. This is to be done by canceling the existing PGE common stock held by Enron and by authorizing and issuing to Enron's creditors new PGE common stock.

The issuance of the new PGE common stock will not change the status as NRC licensee of the Trojan ISFSI, and there will be no direct transfer of the Trojan ISFSI license. Control of the 10 CFR Part 72 license for the Trojan ISFSI, now held by PGE and its co-owners, will remain with PGE and the same co-owners, and will not be affected by the issuance of the new PGE common stock. Issuance of the new PGE common stock will not affect PGE's technical and financial qualifications and its ability to continue funding its share of the costs of operating, maintaining, and ultimately decommissioning the Trojan ISFSI. No physical changes to the Trojan ISFSI or operational changes are being proposed in the application.

Pursuant to 10 CFR 72.50, no license, or any part included in the license issued under 10 CFR Part 72 for an ISFSI shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person unless the Commission gives its consent in writing. The Commission will approve an application for the indirect transfer of a license, if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and

orders issued by the Commission pursuant thereto.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the indirect license transfer application, are discussed below.

Within 20 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of approval of the indirect transfer for the subject ISFSI operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's rules of practice set forth in Subpart C and Subpart M, "Hearing Requests and Procedures for Hearings on License Transfer Applications," of 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a request for a hearing or petition for leave to intervene is filed within 20 days after the date of publication of this notice, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order. As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible