

February 9, 2001

IA-01-009

Joseph Bieri
[HOME ADDRESS DELETED
UNDER 10 CFR 2.790]

SUBJECT: NOTICE OF VIOLATION

Dear Mr. Bieri:

The U.S. Nuclear Regulatory Commission (NRC) received a letter, dated December 15, 2000, from the American Electric Power Company (AEP) informing us that AEP no longer had a need to maintain your operating license for the D. C. Cook Nuclear Power Plant. We also received a letter dated January 12, 2001, from AEP containing information about your refusal to participate in the fitness-for-duty program at the Cook Plant. A copy of each letter is enclosed and we plan to place the letters from AEP in your 10 CFR Part 55 docket file.

The NRC had previously notified you, in a letter dated December 19, 2000, that your license, No. OP-31047, had expired in accordance with 10 CFR 55.55(a), effective December 15, 2000. In addition, the following violation is being issued on your docket:

10 CFR 55.53(k) requires that each licensed operator at a power reactor participate in the drug and alcohol testing program established pursuant to 10 CFR Part 26.

Contrary to the above, on November 19, 2000, you did not participate in the 10 CFR Part 26 drug and alcohol testing program at the D. C. Cook Nuclear Power Plant. Specifically, the Shift Supervisor and Assistant Operations Manager confronted you about your fitness-for-duty. Rather than submitting to fitness-for-duty testing, you resigned your employment and immediately exited the protected area without providing a specimen for testing. (01013)

This is a Severity Level III violation. (Supplement I)

The purpose of the Commission's fitness-for-duty requirements is to provide reasonable assurance that nuclear power plant personnel work in an environment that is free of drugs and alcohol and the effects of the use of these substances. Your refusal to participate in the power reactor licensee's fitness-for-duty program is a serious matter which undermines the special trust and confidence placed in you as a licensed operator. This violation is categorized as a Severity Level III violation in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, because the refusal to participate in fitness-for-duty testing by a licensed operator is a significant regulatory concern. Since your license has expired, you are not required to respond to the Notice of Violation at this time **unless you contest the violation**. Should you contest the Notice of Violation, a response is required within

30 days of the date of this letter addressing the specific basis for disputing the violation. This response should be sent to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, Illinois, 60532-4351 and marked, "Open by Addressee Only." At the same time, a copy shall be sent to the Enforcement Officer at the same address and a copy shall be sent to the Director, NRC Office of Enforcement, Washington, DC 20555.

The purpose of this letter is to make clear to you the consequences of your violation of the NRC requirements governing fitness-for-duty as a licensed operator, in accordance with 10 CFR Part 55. If you reapply for an operating license, you will need to satisfy not only the requirements of 10 CFR 55.31, "How to Apply," but also those of 10 CFR 2.201, "Notice of Violation," by addressing the reasons for the violation and the actions you have taken to prevent recurrence in order to ensure your ability and willingness to carry out the special trust and confidence placed in you as a licensed operator and to abide by all fitness-for-duty and other license requirements and conditions.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, enforcement actions are made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room). A copy of this letter without its enclosures and with your address removed will be made available to the Public unless you provide a sufficient basis to withdraw this violation within the 30 days specified above for a response to this Notice of Violation.

Should you have any questions concerning this action, please contact David E. Hills of my staff. Mr. Hills can be reached at either the address listed above or telephone number (630) 829-9733.

Sincerely,

/RA/

John A. Grobe, Director
Division of Reactor Safety

Docket No. 55-32160

License No. OP-31047

Enclosures: As stated

cc w/encls: R.P. Powers, Senior Vice President
Nuclear Engineering Group, AEP

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*OE Concurrence received on 2/8/01 from Nick Hilton, OE.

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