

June 14, 1996

IA 96-031

Mr. Mark D. Diehl
[HOME ADDRESS DELETED
UNDER 10 CFR 2.790]

Dear Mr. Diehl:

SUBJECT: NOTICE OF VIOLATION AND EXPIRATION OF LICENSE

The Nuclear Regulatory Commission (NRC) received a letter dated May 28, 1996, from the Florida Power and Light Company (FP&L) informing us that they no longer have a need to maintain your operating license for the Turkey Point Nuclear Plant, effective May 7, 1996. We also received a letter dated May 29, 1996, from FP&L containing information about your confirmed positive test for marijuana. Copies of the referenced letters from FP&L are enclosed, and we plan to place them both in your 10 CFR Part 55 docket file.

In accordance with 10 CFR 55.55(a), the determination by your facility that you no longer need to maintain a license has caused your license, OP-21117, to expire as of May 7, 1996. In addition, the following violation is being issued on your docket:

10 CFR 55.53(j) prohibits the use of illegal drugs by licensed operators.

Contrary to the above, the licensee, Mr. Mark D. Diehl, holder of NRC License No. OP-21117, violated 10 CFR 55.53(j) in that the licensee used an illegal drug (marijuana) as evidenced by a confirmed positive test for marijuana resulting from a urine sample submitted on April 29, 1996.

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. The use of illegal drugs 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 Procedures for NRC Enforcement Actions," NUREG-1600, because the use of illegal drugs by licensed operators is a significant regulatory concern. Because 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

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basis for disputing the violation. This response should be sent to the Regional Administrator, NRC Region II, Suite 2900, 101 Marietta Street, N.W., Atlanta, GA 30323 and marked, "Open by Addressee Only."

The purpose of this letter is to make clear to you the consequences of your violation of 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, but also those of 10 CFR 2.201, 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 placed in the NRC Public Document Room (PDR). A copy of this letter without its enclosures and with your address removed will be placed in the PDR 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 Mr. Thomas Peebles of my staff. Mr. Peebles may be reached at either the address listed above or telephone number (404) 331-5541.

Sincerely,

Original Signed by
Albert F. Gibson

Albert F. Gibson, Director
Division of Reactor Safety

Docket No. 55-21939
License No. OP- 21117

Enclosures: 1. Letter from FP&L, dated May 28, 1996
2. Letter from FP&L, dated May 29, 1996

cc w/enc's [HOME ADDRESS DELETED]:
R. J. Hovey
Site Vice President
Turkey Point Nuclear Plant
P. O. Box 029100
Miami, FL 33102

Part 55 Docket File

M. Diehl

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Thomas P. Johnson
Senior Resident Inspector
U.S. Nuclear Regulatory Commission
P. O. Box 1448
Homestead, FL 33090

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*KJP
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