

Public



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
101 MARIETTA STREET, N.W., SUITE 2900
ATLANTA, GEORGIA 30323-0199
September 19, 1996

IA 96-060

Mr. John C. Baston
[HOME ADDRESS DELETED
UNDER 10 CFR 2.790]

SUBJECT: NRC INSPECTION REPORT NO. 50-302/96-07

Dear Mr. Baston:

This refers to the inspection conducted on July 29 through August 2, 1996, at the Crystal River Nuclear Plant. The inspection included a review of the incident identified by Florida Power Corporation (licensee) involving your apparent failure to disclose your criminal history during the pre-employment screening process at the Crystal River Nuclear Plant - Unit 3. The report documenting the NRC inspection contains Safeguards Information; however, an excerpt from the applicable portion of the report is provided as Enclosure 1.

The licensee's investigation of this matter revealed that while you were employed by Brock and Blevins (a division of William Powers Company), you falsified the Crystal River Personal History Questionnaire (PHQ) when you failed to include various instances of prior criminal charges. Based on the inaccurate information you provided on the PHQ, you were granted temporary, unescorted access to the Crystal River site from January 18 through April 12, 1996, pending completion of Federal Bureau of Investigation (FBI) fingerprint checks. Subsequent to completion of your work at the Crystal River Nuclear Plant, the licensee received your FBI fingerprint information which revealed numerous criminal charges which were not included on your PHQ. Upon the licensee's request, you returned to the Crystal River Plant site to participate in the licensee's investigation. You admitted the falsification, showed remorse for your actions, and also identified two additional convictions, one of which occurred in 1996 and required reporting to the licensee in accordance with a Responsibility to Report Arrest Form you signed on January 17, 1996. Although you admitted that information was omitted from the PHQ during the interview, you stated that the Brock and Blevins staff told you to report only your criminal history for the last five years. The NRC notes that such verbal instruction would be contrary to the written instructions on the PHQ which requires the identification of a complete criminal history.

You should be aware of the Commission's regulations applicable to this case. First, 10 CFR 73.56 requires each licensee to establish and maintain an access authorization program which provides a high degree of assurance that the individuals granted unescorted access to protected and vital areas of a nuclear power plant are trustworthy and reliable. One required element of

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this program is the completion of a background investigation including verification of criminal history. Second, 10 CFR 50.9(a), "Completeness and Accuracy of Information," provides, in part, that information required by the Commission's regulations or license conditions to be maintained by the licensee shall be complete and accurate in all material respects. Lastly, 10 CFR 50.5(a)(2), "Deliberate Misconduct," prohibits employees from deliberately submitting any information to a licensee that the person knows to be incomplete or inaccurate. The NRC relies on accurate records of activities and the integrity of individual workers at nuclear power facilities to ensure the health and safety of the public and, therefore, expects no less than full compliance with all applicable requirements.

In this case, the NRC has decided not to pursue any formal enforcement action against you based on the information provided to us by Florida Power Corporation that you cooperated with their investigation, admitted the falsification and showed remorse for your actions, and because NRC is unaware of similar actions by you at other facilities. While formal enforcement action is not being taken against you in this matter, we are issuing this letter to emphasize to you the NRC's expectation that you provide complete and accurate information in all aspects of work at NRC licensed facilities. NRC regulations provide for the issuance of civil sanctions directly against unlicensed persons who, through their deliberate misconduct, cause a licensee to be in violation of NRC requirements. Deliberate misconduct includes an intentional act or omission that the person knows constitutes a violation of a requirement, procedure or training instruction. An order also may be issued to an individual to prevent his or her engaging in licensed activities at all NRC licensed facilities. A violation of this regulation as set forth in 10 CFR 50.5 may also lead to criminal prosecution. Similar failures in the future could lead to civil or criminal action against you.

You are not required to respond to this letter. However, if you choose to provide a response, please provide it to me within 30 days of the date of this letter at the U.S. Nuclear Regulatory Commission, Region II, 101 Marietta Street, Suite 2900, Atlanta, GA 30323.

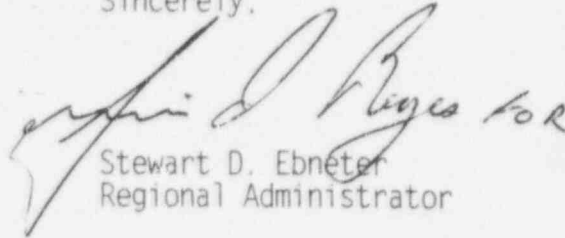
In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, records or documents compiled for enforcement purposes are placed in the NRC Public Document Room (PDR). A copy of this letter with your address removed, and your response, if you choose to submit one, will be placed in the PDR (within 45 days of the date of this letter unless you provide sufficient basis to withdraw this letter).

J. Baston

3

If you have any questions or comments regarding this letter, please contact Mr. Paul Fredrickson, Chief, Special Inspection Branch, at (404) 331-5596.

Sincerely,



Stewart D. Ebner
Regional Administrator

- Enclosures: 1. Excerpt from NRC Inspection Report
No. 50-302/96-07
2. Deliberate Misconduct Rule

cc w/encls [with HOME ADDRESS DELETED]:

Florida Power Corporation
Crystal River Energy Complex
Mr. P. M. Beard, Jr. (SA2A)
Sr. VP, Nuclear Operations
ATTN: Mgr., Nuclear Licensing
15760 West Power Line Street
Crystal River, FL 34428-6708

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NRC Resident Inspector
 U.S. Nuclear Regulatory Commission
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*OE J. Lieberman
 Per J. Beall
 09/17/96*

EXCERPT FROM NRC INSPECTION REPORT NO. 50-302/96-07

6.0 Access Authorization (TI 2515/127)

By letter dated May 27, 1992, the licensee submitted Revision 6 to the Crystal River Nuclear Plant PSP committing to the requirements of 10 CFR 73.56 and NRC Regulatory Guide 5.66, Access Authorization Program for Nuclear Power Plants.

Upon discussion with licensee representatives, the inspector noted that four Williams Power Company employees had recently been terminated due to possible falsification. The inspector determined that the following contractors had falsified their Personal History Questionnaires (PHQs):

- A contractor was granted temporary unescorted access on January 18, 1996, and was terminated on April 12, 1996. The individual's access was terminated for falsification of the PHQ in which he failed to list previous criminal convictions. In addition, while employed at Crystal River, the contractor failed to report an arrest for Driving Under the Influence (DUI). The falsification was discovered by the licensee when the fingerprints were returned to the licensee.
- A contractor was granted temporary unescorted access on February 7, 1996, and was terminated on April 12, 1996. The individual's access was terminated for falsification of the PHQ in which he failed to list previous felony convictions. The falsification was discovered by the licensee when the fingerprints were returned to the licensee.
- A contractor was granted temporary unescorted access on February 17, 1996, and was terminated on March 12, 1996. The individual's access was terminated for falsification of the PHQ in which he failed to list previous felony convictions. The falsification was discovered by the licensee when the fingerprints were returned to the licensee.
- A contractor was granted temporary unescorted access on February 13, 1996, and was terminated on April 10, 1996. The individual's access was terminated for falsification of the PHQ in which he failed to list previous criminal convictions. Prior to the return of the fingerprints, the individual was arrested offsite on outstanding warrant charges. The return of the fingerprints noted this outstanding warrant also.

The inspector noted that the PHQ given to the individuals to complete clearly requested that the applicant provide information concerning any arrest, conviction, indictment, charge or fined offense within their lifetime.

The falsification of Access Authorization records discussed above is being considered further by the NRC. This will be tracked as Unresolved Item (URI) 96-07-03.

Enclosure 1

Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555, two copies to the appropriate Regional Office, and one copy to the appropriate NRC Resident Inspector if one has been assigned to the site of the facility.

(i) Emergency plan pursuant to § 50.34;

(ii) Change to an emergency plan pursuant to § 50.54(q);

(iii) Emergency implementing procedures pursuant to Appendix E.V of this part.

(8) *Updated FSAR.* An updated Final Safety Analysis Report (FSAR) or replacement pages, pursuant to § 50.71(e) must be submitted as follows: the signed original and 10 copies to the Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555, one copy to the appropriate Regional Office, and one copy to the appropriate NRC Resident Inspector if one has been assigned to the site of the facility.

(7) *Quality assurance related submittals.* (i) A change to the Safety Analysis Report quality assurance program description pursuant to § 50.54(a)(3) or § 50.55(f)(3), or a change to a licensee's NRC-accepted quality assurance topical report pursuant to § 50.54(a)(3) or § 50.55(f)(3), must be submitted as follows: the signed original to the Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555, one copy to the appropriate Regional Office, and one copy to the appropriate NRC Resident Inspector if one has been assigned to the site of the facility.

(ii) A change to an NRC-accepted quality assurance topical report from nonlicensees (i.e., architect/engineers, NSSS suppliers, fuel suppliers, constructors, etc.) must be submitted as follows: one signed original to the Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555.

(c) *Form of communications.* All copies submitted to meet the requirements set forth in paragraph (b) of this section must be typewritten, printed or otherwise reproduced in permanent form on unglazed paper. Exceptions to these requirements may be granted for the submittal of micrographic, photographic, or electronic forms. Prior to making any submittal in other than paper form, the applicant or licensee must contact the Information and Records Management Branch, Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-7230, to obtain specifications, copy requirements, and prior approval.

(d) *Delivery of communications.* Written communications may be delivered to the Document Control Desk at 11555 Rockville Pike, Rockville, Maryland between the hours of 8:15 a.m. and 4:00 p.m. Eastern Time. If a submittal due date falls on Saturday, Sunday, or Federal holiday, the next Federal working day becomes the official due date.

(e) *Regulation governing submission.* Licensees and applicants submitting correspondence, reports, and other written communications pursuant to the regulations of this part are requested but not required to cite whenever practical, in the upper right corner of the first page of the submittal, the specific regulation or other basis, requiring submission.

(f) *Conflicting requirements.* The communications requirements contained in this section and §§ 50.12, 50.30, 50.36, 50.36a, 50.44, 50.49, 50.54, 50.55, 50.55a, 50.59, 50.62, 50.71, 50.73, 50.82, 50.90, and 50.91 supersede and replace all existing requirements in any license conditions or technical specifications in effect on January 5, 1987. Exceptions to these requirements must be approved by the Information and Records Management Branch, Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415-7230.

§ 50.5 Deliberate misconduct.

(a) Any licensee or any employee of a licensee, and any contractor (including a supplier or consultant), subcontractor, or any employee of a contractor or subcontractor, of any licensee, who knowingly provides to any licensee, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's activities subject to this part, may not:

(1) Engage in deliberate misconduct that causes or, but for detection, would have caused, a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation of any license, issued by the Commission, or

(2) Deliberately submit to the NRC, a licensee, or a licensee's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

(b) A person who violates paragraph (a)(1) or (a)(2) of this section may be subject to enforcement action in accordance with the procedures in 10 CFR part 2, subpart B.

(c) For purposes of paragraph (a)(1) of this section, deliberate misconduct by a person means an intentional act or omission that the person knows:

(1) Would cause a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation, of any license issued by the Commission, or

(2) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order or policy of a licensee, contractor, or subcontractor.

§ 50.7 Employee protection.

(a) Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment. The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

(1) The protected activities include but are not limited to:

(i) Providing the Commission or his or her employer information about alleged violations of either of the statutes named in paragraph (a) introductory text of the section or possible violations of requirements imposed under either of those statutes;

(ii) Refusing to engage in any practice made unlawful under either of the statutes named in paragraph (a) introductory text or under these requirements if the employee has identified the alleged illegality to the employer;

(iii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements;

(iv) Testifying in any Commission proceeding, or before Congress, or at any Federal or State proceeding regarding any provision (or proposed provision) of either of the statutes named in paragraph (a) introductory text.

(v) Assisting or participating in, or is about to assist or participate in, these activities.