

UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of

MR. JEFFREY LEE BARNHART
A.k.a. GREGORY KENNETH BARNHART

IA 97-049

ORDER PROHIBITING INVOLVEMENT IN
NRC-LICENSED ACTIVITIES
(EFFECTIVE IMMEDIATELY)

I

Mr. Jeffrey Lee Barnhart was a contract employee at Northern States Power Company's (Licensee or NSP) Prairie Island Nuclear Generating Plant (PINGP), working under temporary unescorted access authorization. NSP holds Facility Licenses No. DPR-42 and DPR-60, which were issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50 on August 9, 1973, and October 29, 1974, respectively. These licenses authorize the operation of PINGP in accordance with the conditions specified therein. The facility is located on the Licensee's site in Minnesota.

II

In accordance with 10 CFR 73.56, nuclear power plant licensees must conduct access authorization programs for individuals seeking unescorted access to protected and vital areas of the plant with the objective of providing high assurance that individuals granted unescorted access are trustworthy and reliable and do not constitute an unreasonable risk to the health and safety of the public. Pursuant to 10 CFR 73.56, the unescorted access authorization

program must include, at a minimum, verification of an individual's true identity, verification of an individual's character and reputation, and development of information concerning an individual's criminal history; and the decision to grant unescorted access authorization must be based on the licensee's review and evaluation of all pertinent information.

In order to be certified for unescorted access at PINGP, as a contractor employee, Mr. Barnhart completed the security background questionnaire under the assumed name of his deceased brother, Mr. Gregory Kenneth Barnhart, on December 7, 1995. In February 1996, NSP received information concerning Mr. Barnhart's deception before Mr. Barnhart's full background investigation had been completed. A subsequent NSP record review found that Mr. Barnhart's true identity was Jeffrey Lee Barnhart and that he had submitted falsified documents in his request for access authorization. NSP interviewed Mr. Barnhart and determined that he had obtained a driver's license under the assumed name and had been using a false identity for several years. Additionally, Mr. Barnhart admitted that, contrary to his responses on the Security Questionnaire, he had used and was once cited for possession of marijuana. Based on this information, NSP denied Mr. Barnhart's access on February 8, 1996.

An investigative report was prepared by the NSP security department regarding the falsification of the licensee's access authorization documents. The report was reviewed during an investigation conducted by the NRC Office of

Investigations (OI), which was initiated on February 3, 1997. The OI investigation concluded that Mr. Barnhart had deliberately falsified his application for unescorted access, and was working under the assumed name of his deceased brother.

On April 24, 1997, a Demand for Information (DFI) was issued to Mr. Barnhart pursuant to 10 CFR 2.204 to determine whether enforcement action should be taken against him to ensure future compliance with NRC requirements. The DFI requested that Mr. Barnhart submit information by May 24, 1997, describing why the NRC should have confidence that he would provide complete and accurate information to NRC licensees and the Commission in the future. Mr. Barnhart did not respond to the DFI.

III

Based on the above, the NRC has concluded that Mr. Barnhart engaged in deliberate misconduct by deliberately assuming the identity of his deceased brother on his personal history questionnaire and misinforming the licensee as to his history of drug use and conviction for possession of marijuana. Mr. Barnhart's actions constitute a violation of 10 CFR 50.5(a)(2), which prohibits an individual from deliberately providing information to a licensee or contractor that the individual knows is inaccurate or incomplete in some respect material to the NRC. The information that Mr. Barnhart provided regarding his background information was material because, as indicated above, licensees are required to consider such information in making unescorted access determinations in accordance with the requirements of 10 CFR 73.56.

The NRC must be able to rely on the Licensee, its contractors, and Licensee and contractor employees to comply with NRC requirements, including the requirement to provide information that is complete and accurate in all material respects. Mr. Barnhart's actions in deliberately providing false information to the Licensee constitute deliberate violations of Commission regulations, and his conduct raises serious doubt about his trustworthiness and reliability and as to whether he can be relied upon to comply with NRC requirements and to provide complete and accurate information to NRC Licensees and their contractors in the future.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public would be protected if Mr. Barnhart were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Mr. Barnhart be prohibited from any involvement in NRC-licensed activities for a period of five years from the date of this Order. If Mr. Barnhart is currently involved with another licensee in NRC-licensed activities, Mr. Barnhart must immediately cease such activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer. Additionally, Mr. Barnhart is required to notify the NRC of his employment in NRC-licensed activities for a period of five years

following the prohibition period. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Mr. Barnhart's conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 103, 161b, 161c, 161i and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR 50.5, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

1. Mr. Jeffrey Lee Barnhart, a.k.a. Mr. Gregory Kenneth Barnhart, is prohibited from engaging in activities licensed by the NRC for five years from the date of this Order. For the purposes of this Order, licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.
2. For a period of five years after the five-year period of prohibition has expired, Mr. Barnhart shall, within 20 days of his acceptance of each employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be,

involved in the NRC-licensed activities. In the first notification, Mr. Barnhart shall include a statement of his commitment to comply with NRC regulatory requirements and the basis for the Commission to have confidence that he will now comply with applicable NRC requirements.

The Director, OE, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Barnhart of good cause.

V

In accordance with 10 CFR 2.202, Mr. Barnhart must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order within 20 days of the date of this Order. 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, D.C. 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Barnhart or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted

to the Secretary, U. S. Nuclear Regulatory Commission, ATTN: Chief, Rulemakings and Adjudications, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, Region III, U. S. Nuclear Regulatory Commission, 801 Warrenville Road, Lisle, Illinois 60532-4351, and to Mr. Barnhart, if the answer or hearing request is by a person other than Mr. Barnhart. If a person other than Mr. Barnhart requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

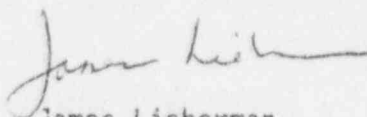
If a hearing is requested by Mr. Barnhart or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Barnhart may, in addition to demanding a hearing, at the time that answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or

proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR A HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION



James Lieberman
Director, Office of Enforcement

Dated at Rockville, Maryland
this 23rd day of June 1997

June 23, 1997

Jeffrey Lee Barnhart

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