

November 6, 2000

IA-00-016

Mrs. Gail C. VanCleave
[HOME ADDRESS DELETED
UNDER 10 CFR 2.790(a)]

**SUBJECT: ORDER PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITIES
(NRC OFFICE OF INVESTIGATIONS REPORT NO. 3-1999-048)**

Dear Mrs. VanCleave:

The enclosed Order Prohibiting Involvement in NRC-Licensed Activities (Order) is being issued to you based on an investigation by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI). The Code of Federal Regulations (CFR), specifically 10 CFR 73.56(a), requires NRC licensees to establish and maintain programs, including background investigations to identify past actions which are indicative of an individual's future reliability, to ensure that individuals granted unescorted access to NRC-licensed facilities are trustworthy and reliable and do not constitute an unreasonable risk to public health and safety. Based on the OI investigation, we conclude that you deliberately provided a false social security number in an attempt to conceal the fact that you had twice previously been denied unescorted access at NRC licensees because of a misdemeanor conviction for theft from a Department of Energy contractor. As a result of that materially incomplete and inaccurate information, you gained unescorted access to the D.C. Cook Plant from September 17, 1999, to November 18, 1999. Additionally, you made a statement to an NRC investigator that you would repeat the deliberate acts of falsification again should you find yourself in a similar financial situation. Such a statement provides us no assurance that should you be employed in the nuclear industry, you could be trusted to comply with NRC requirements.

Accordingly, the enclosed Order prohibits your involvement in NRC-licensed activities for a period of three years. In addition, the Order requires you, for an additional three years following the prohibition period, to notify the NRC the first time you accept employment involving NRC-licensed activities or you become involved in NRC-licensed activities. Pursuant to section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Order shall be subject to criminal prosecution as set forth in that section. Violation of this order may also subject the person to civil monetary penalty.

By letter dated May 18, 2000, the NRC offered you the opportunity to discuss the NRC findings at a predecisional enforcement conference (PEC) or to submit a written explanation by August 21, 1999. The May 18, 2000, letter also explained that if you did not request a PEC or respond by letter, the NRC would proceed with its enforcement action. Our letter was sent to you by Certified Mail, return receipt requested, and the U.S. Postal Service returned the letter to us on July 21, 2000, marked as unclaimed mail. The letter was resent to you on July 21, 2000,

by express delivery service and was delivered to your address on July 25, 2000. On August 8, 2000, you contacted the NRC Region III office and acknowledged receiving the letter from the NRC. At that time you declined the opportunity to meet with the NRC staff in a predecisional enforcement conference and indicated that you would be writing a letter of explanation to the NRC. The NRC has not received any correspondence or further communication from you as of this date.

Questions concerning this Order should be addressed to Mr. R. W. Borchardt, Director, Office of Enforcement, who can be reached at (301) 415-2741.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be 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) accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html>.

Sincerely,

/RA/

Frank J. Miraglia, Jr.
Deputy Executive Director
for Reactor Programs

Enclosure: As stated

Dockets No. 50-315; 50-315
Licenses No. DPR-58; DPR-78

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UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of
Gail C. VanCleave

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IA-00-016

ORDER PROHIBITING INVOLVEMENT IN
NRC-LICENSED ACTIVITIES

I

Gail C. VanCleave was employed by Sun Technical, a contractor of the American Electric Power Company (Licensee or AEP) from at least September 16, 1999 and November 18, 1999. Licensee is the holder of Licenses No. DPR-58 and DPR-74, issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50 on October 25, 1974, and December 23, 1977, respectively. The license authorizes the operation of D. C. Cook Nuclear Power Plant (Cook Plant or facility) in accordance with the conditions specified therein. The facility is located on the Licensee's site near Bridgeman, MI.

II

An investigation was conducted between November 22, 1999, and March 23, 2000, by the NRC Office of Investigations (OI) as a result of information provided to the NRC by the Licensee on November 18, 1999. The Licensee reported that Gail C. VanCleave, a clerical employee of Sun Technical at the Cook Plant, had been granted temporary unescorted access to the Cook Plant based on incomplete and inaccurate information she provided in her access authorization application on September 6 and 8, 1999. On November 18, 1999, the security department at the Cook Plant received the criminal history information for Gail C. VanCleave, which indicated a social security account number different from the one she provided on September 6 and 8, 1999, which was in fact the social security account number of her deceased mother. Ms.

VanCleave also failed to provide complete information about previous employment on September 6 and 8, 1999, in that she failed to identify a previous employer, a contractor of the United States Department of Energy (DOE). The incomplete and inaccurate information was material. Ms. Van Cleave provided an inaccurate social security number in an attempt to conceal the fact that she had previously been denied unescorted access authorization by the Cook Plant on January 20, 1999, and that she had previously been denied unescorted access to the Tennessee Valley Authority's Watts Bar facility on November 4, 1998, because of a misdemeanor conviction for theft from the DOE contractor. As a result of the discovery of Ms. VanCleave's provision of incomplete and inaccurate information in her application for unescorted access authorization, the security department terminated her temporary unescorted access to the Cook Plant on November 18, 1999.¹

Based on the OI investigation, we conclude that Gail C. VanCleave deliberately provided materially inaccurate and incomplete information to the Cook Plant in order to gain employment at, and unescorted access to, the facility. Furthermore, Ms. Van Cleave told the OI investigator that she would do the same thing again if she were to find herself in the same financial situation.

¹ She entered the protected area of the Cook Plant five times from September 17, 1999, to November 18, 1999.

Based on the above, it appears that Gail C. VanCleave, an employee of a Licensee contractor, engaged in deliberate misconduct in violation of 10 CFR 50.5 by deliberately providing materially incomplete and inaccurate information to the Licensee. The NRC must be able to rely on the Licensee, its employees and the employees of its contractors to comply with NRC requirements, including the requirement to provide complete and accurate information and maintain records that are complete and accurate in all material respects. The actions of Gail C. VanCleave including both deliberately providing materially incomplete and inaccurate information to the Licensee and communicating to an NRC investigator that she would repeat the act have raised serious doubt as to whether she can be relied upon to comply with NRC requirements and to provide complete and accurate information to NRC licensees and to the NRC.

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 will be protected if Gail C. VanCleave was permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Gail C. VanCleave be prohibited from any involvement in NRC-licensed activities for a period of three years from the date of this Order. Additionally, Gail C. VanCleave, for a period of three years following the prohibition period, is required to notify the NRC of her employment in NRC-licensed activities.

Accordingly, pursuant to sections 103, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 50.5, and 10 CFR 150.20, IT IS HEREBY ORDERED THAT:

1. Gail C. VanCleave is prohibited for three years from the date of this Order from engaging in NRC-licensed activities. NRC-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. If Gail C. VanCleave is currently involved with another licensee in NRC-licensed activities, she must immediately cease those 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.
3. For a period of three years after the three year period of prohibition has expired, Gail C. VanCleave shall, within 20 days of her acceptance of each employment offer involving NRC-licensed activities or her 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, DC 20555, of the name, address, and telephone number of the employer or the entity where she is, or will be, involved in the NRC-licensed activities. In the first notification, Gail C. VanCleave shall include a

statement of her commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that she will now comply with applicable NRC requirements.

The Director, NRC Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Gail C. VanCleave of good cause.

V

In accordance with 10 CFR 2.202, Gail C. VanCleave 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, DC 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 Gail C. VanCleave 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: Rulemakings and Adjudications Staff, 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 Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region III, 801

Warrenville Road, Lisle, IL 60532-4351 and to Gail C. VanCleave if the answer or hearing request is by a person other than Gail C. VanCleave. If a person other than Gail C. VanCleave 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 Gail C. VanCleave 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.

In the absence of any request for hearing, or written approval of an extension of time in which 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.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Frank J. Miraglia, Jr.
Deputy Executive Director
for Reactor Programs

Dated this 6th day of November 2000.