



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

2001-0005

1

RESPONSE TYPE FINAL PARTIAL

DATE NOV 28 2000

REQUESTER

Bill Wallack

PART I. -- INFORMATION RELEASED

- No additional agency records subject to the request have been located.
- Requested records are available through another public distribution program. See Comments section.
- APPENDICES Agency records subject to the request that are identified in the listed appendices are already available for public inspection and copying at the NRC Public Document Room.
- APPENDICES A Agency records subject to the request that are identified in the listed appendices are being made available for public inspection and copying at the NRC Public Document Room.
- Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, NW, Washington, DC.
- APPENDICES A Agency records subject to the request are enclosed.
- Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Comments.

PART I.A -- FEES

AMOUNT *

\$

- You will be billed by NRC for the amount listed.
- None. Minimum fee threshold not met.
- You will receive a refund for the amount listed.
- Fees waived.

* See comments for details

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- No agency records subject to the request have been located.
- Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.
- This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Carol Ann Reed

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

2001-0005

NOV 28 2000

PART II.A -- APPLICABLE EXEMPTIONS

APPENDICES

A

Records subject to the request that are described in the enclosed Appendices are being withheld in their entirety or in part under the Exemption No.(s) of the PA and/or the FOIA as indicated below (5 U.S.C. 552a and/or 5 U.S.C. 552(b)).

- Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.
- Exemption 2: The withheld information relates solely to the internal personnel rules and procedures of NRC.
- Exemption 3: The withheld information is specifically exempted from public disclosure by statute indicated.
 - Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
 - Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
 - 41 U.S.C., Section 253(b), subsection (m)(1), prohibits the disclosure of contractor proposals in the possession and control of an executive agency to any person under section 552 of Title 5, U.S.C. (the FOIA), except when incorporated into the contract between the agency and the submitter of the proposal.
- Exemption 4: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.
 - The information is considered to be confidential business (proprietary) information.
 - The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.790(d)(1).
 - The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.790(d)(2).
- Exemption 5: The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Applicable privileges:
 - Deliberative process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
 - Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation)
 - Attorney-client privilege. (Confidential communications between an attorney and his/her client)
- Exemption 6: The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
 - (A) Disclosure could reasonably be expected to interfere with an enforcement proceeding (e.g., it would reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators).
 - (C) Disclosure would constitute an unwarranted invasion of personal privacy.
 - (D) The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
 - (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
 - (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
- OTHER (Specify)

PART II.B -- DENYING OFFICIALS

Pursuant to 10 CFR 9.25(g), 9.25(h), and/or 9.65(b) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The person responsible for the denial are those officials identified below as denying officials and the FOIA/PA Officer for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECY	IG
Mr. Guy P. Caputo	Director, Office of Investigations	Appendix A	<input checked="" type="checkbox"/>		

Appeal must be made in writing within 30 days of receipt of this response. Appeals should be mailed to the FOIA/Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, for action by the appropriate appellate official(s). You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

**APPENDIX A
RECORDS WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	5/31/00	Report of Investigation, Case No. 3-2000-001, D.C. Cook Nuclear Power Plant: Deliberative Failure to Report Incidents of a Sleeping Reactor Operator and Deliberate Failure to Provide Accurate Information Regarding a Reactor Operator's Medical Condition in an NRC License Application (35 pages) EX. 5 and 7C



**United States
Nuclear Regulatory Commission**

Report of Investigation

D.C. COOK NUCLEAR POWER PLANT

**Deliberate Failure to Report Incidents of a Sleeping
Reactor Operator and Deliberate Failure to Provide
Accurate Information Regarding a Reactor Operator's
[REDACTED] in an NRC License Application**

EN 70

Office of Investigations

Reported by OI:RIII

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 5, 7C
FOIA- 2001-005

A/1

Title: D.C. COOK NUCLEAR POWER PLANT

**DELIBERATE FAILURE TO REPORT INCIDENTS OF A SLEEPING
REACTOR OPERATOR AND DELIBERATE FAILURE TO PROVIDE
ACCURATE INFORMATION REGARDING A REACTOR OPERATOR'S
[REDACTED] IN AN NRC LICENSE APPLICATION**

EX7C

Licensee:

**American Electric Power Company
500 Circle Drive
Buchanan, MI 49107**

Docket No.: 50-315

Case No.: 3-2000-001

Report Date: May 31, 2000

Control Office: OI:RIII

Status: CLOSED

Reported by:

Reviewed and Approved by:



**William J. Davis, Special Agent
Office of Investigations
Field Office, Region I**



**Richard C. Paul, Director
Office of Investigations
Field Office, Region III**

Participating Personnel:

**Claudia T. Pietras, Special Agent
Office of Investigations
Field Office, Region III**

WARNING

**DO NOT DISSEMINATE, PLACE IN THE PUBLIC DOCUMENT ROOM OR
DISCUSS THE CONTENTS OF THIS REPORT OF INVESTIGATION OUTSIDE
NRC WITHOUT AUTHORITY OF THE APPROVING OFFICIAL OF THIS
REPORT. UNAUTHORIZED DISCLOSURE MAY RESULT IN ADVERSE
ADMINISTRATIVE ACTION AND/OR CRIMINAL PROSECUTION.**

SYNOPSIS

This investigation was initiated by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region III (RIII), on January 4, 2000, to determine if D.C. Cook (Cook) management deliberately failed to report incidents of a sleeping reactor operator, and if Cook management deliberately failed to provide accurate information to the NRC concerning the reactor operator's [REDACTED] in an NRC license application. 7C

OI has been unable to develop any evidence that Cook management deliberately failed to report incidents of a sleeping reactor operator, or that Cook management deliberately failed to provide accurate information to the NRC concerning the reactor operator's [REDACTED] in an NRC license application. 7C

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

THIS PAGE LEFT BLANK INTENTIONALLY

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

TABLE OF CONTENTS

	<u>Page</u>
SYNOPSIS	1
LIST OF INTERVIEWEES	5
DETAILS OF INVESTIGATION	7
Applicable Regulations	7
Purpose of Investigation	7
Background	7
Interview of Allegor	8
Coordination with Regional Staff	9
Allegation 1	9
Evidence	9
Review of Documentation	9
Testimony	10
Interview of SCOMA	10
Interview of BRANCH	11
Control Room Log Unit 1 - [REDACTED]	12
[REDACTED]	12
Interview of WOLLENSLEGEL	12
Interviews of HARRAH	13
Interview of RIEGLE	13
Interview of BEHRENS	13
Control Room Log Unit 1 - [REDACTED]	14
[REDACTED]	14
Interview of PARTIN	15
Interviews of TILLY	15
Interviews of HARRAH	16
Interview of APPLEMAN	16
Interview of BEHRENS	17
Control Room Log Unit 1 - [REDACTED]	18
[REDACTED]	18
Interviews of TILLY	18
Interview of ARCHEY	18
Interview of HENNING	19

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

Part 10

Interview of MONROE	19
Internal Investigation Conducted by AEP	19
Agent's Analysis	20
Conclusion	20
Allegation 2	20
Evidence	20
Review of Documentation	20
	22
	24
	25
	26
Agent's Analysis	27
Conclusion	28
SUPPLEMENTAL INFORMATION	29
LIST OF EXHIBITS	31

2C

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III~~

Blm

LIST OF INTERVIEWEES

Exhibit
No.

APPLEMAN, Timothy, Control Room Reactor Operator (RO), D.C. Cook (Cook),
American Electric Power (AEP) 19

ARCHEY, Charles, Assistant Shift Supervisor, Cook, AEP 26

BEHRENS, Scott, RO, Cook, AEP 21

BRANCH, Robert, RO, Cook, AEP 38

BURRIS, Lloyd, Unit Supervisor, Cook, AEP 44

[REDACTED] 32, 43
[REDACTED] 22, 40

7C

HARRAH, Ronald, Control Room Shift Supervisor, Cook, AEP 18, 28, 39

HARRINGTON, Michael, Clearance Writer, Operations Department, Cook, AEP 45

HENNING, Gregory, Unit Supervisor, Cook, AEP. 31

MONROE, Jeffrey, RO, Cook, AEP 20

PARTIN, Sam, Assistant Shift Supervisor, Cook, AEP 30

[REDACTED] 25

7C

RIEGLE, Mark, Senior RO, Cook, AEP 27

SCOMA, Jerry, Auxiliary Equipment Operator, Cook, AEP 37

[REDACTED] 23, 24, 46

7C

TILLY, Jeffrey, Shift Supervisor, Cook, AEP 35, 36

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

7C



48 7C

WOLLENSLEGEL, Ned, Shift Supervisor, Cook, AEP 29

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

DETAILS OF INVESTIGATION

Applicable Regulations

- 10 CFR 50.5: Deliberate Misconduct (1999 Edition)
- 10 CFR 50.9: Completeness and Accuracy of Information (1999 Edition)

Purpose of Investigation

This investigation was initiated by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region III (RIII), on January 4, 2000, to determine if D.C. Cook (Cook) management deliberately failed to report incidents of a sleeping reactor operator (RO), and if Cook management deliberately failed to provide accurate information regarding an RO's [REDACTED] in an NRC license application (Exhibit 1). 7C

Background

On December 8, 1999, John ADAMS, RIII Office Allegation Coordinator, received a call from [REDACTED] expressed the following concerns (Exhibit 2): 7C

1. Operations Management is covering up three occurrences of [REDACTED] being relieved of duty for allegedly sleeping in the control room. The dates in question are [REDACTED]. 7C
2. On December 2, 1999, a memorandum was issued by the licensee addressing sleeping in the work place. It referred to sleeping events that have occurred, but failed to mention any of the recent control room sleeping events as examples (Exhibit 49).
3. [REDACTED] stated that operations management did not enter the sleeping events [involving [REDACTED]] into their corrective actions program as required, or their plant operating experience data base. He stated that a licensed operator sleeping on duty is a condition adverse to quality, and as such, is required to be entered into the corrective action program via a condition report (CR). [REDACTED] added that the shift supervisors were specifically told not to write CRs by operations management. 7C
4. [REDACTED] stated that the plant mode at the time of all three licensed operator sleeping events required only one operator to be assigned to the unit. The operator relieved for sleeping may have been the only operator on duty at the time. 7C

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

5. [redacted] stated that management's handling of sleeping while on duty is inconsistent between work groups, i.e., he was fired for allegedly sleeping on duty, while [redacted] was reassigned to work control duties. 7C

[redacted] advised ADAMS that he had raised these concerns with licensee management during his employment at Cook. [redacted] did not object to release of his identity and did not object to the referral of his concerns to the licensee (Exhibit 2). 7C

[redacted] concerns were the subject of an Allegation Review Board convened on January 4, 2000. As a result, the case was referred to OI for investigation (Exhibits 3 and 3A). 7C

Interview of Allegor (Exhibits 22 and 40)

[redacted] was interviewed by OI on January 12, 2000. Prior to the interview he provided an eight-page handwritten document outlining his concerns (Exhibit 40). 7C

[Large redacted block of text]

On [redacted] received a telephone call from Bob BRANCH, RO, and Jerry SCOMA, Auxiliary Equipment Operator, two members of his former shift. They called him from the MUP office and expressed "surprise, dismay, and confusion" over [redacted] firing. They also provided details about [redacted] how he came to be taken off shift and assigned to a newly formed [position in the] Work Control Center (WCC). They provided [redacted] with dates and times that [redacted] had been relieved from shift and also the names of his replacements. Although it was well rumored throughout the shifts that [redacted] had fallen asleep several times while on duty in the control room, prior to this telephone call, [redacted] was not "privy" to the specifics that lead to [redacted] stated, "My fellow R.O.' seemed to have first hand knowledge of what occurred" (Exhibit 22, pp. 27-28; and Exhibit 40). 7C

[redacted] in explaining the term "first hand knowledge," said that BRANCH was on the same shift [redacted] and he seemed to know all the details that he [redacted] had not known (Exhibit 22, p. 29). 7C

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

7C

In spite of the rumors that [REDACTED] had fallen asleep in the control room, [REDACTED] said that he never heard anybody say they had seen him [asleep in the control room]. What he had heard, via rumor, was that [REDACTED] because he had trouble staying awake (Exhibit 22, p. 28). 7C

BRANCH and SCOMA also told [REDACTED] the following:

- [REDACTED] 7C
- that no explanation for [REDACTED] reliefs were noted in the control room log or the computer log (Exhibit 22, p. 34; and Exhibit 40);
- that Ron HARRAH, Assistant Shift Manager, "C" Shift, upon raising a question as to the need for a CR, was told by TILLY and/or possibly Larry WEBER, Operations Manager, not to write a CR (Exhibit 22, pp. 35-36, 39-40; and Exhibit 40).

Coordination with Regional Staff

On January 12, 2000, OI met with Bruce BARTLETT and Kevin COYNE, NRC Resident Inspectors at Cook. The scope of the investigation was explained to both and a request was made for control room logs, security gate logs, and various personnel records. These records were received by OI shortly thereafter.

Coordination with Regional Counsel

The investigation was initiated with the concurrence of Bruce A. BERSON, RIII Counsel [REDACTED] 5

Allegation 1: Deliberate Failure to Report Incidents of a Sleeping RO

Evidence

Review of Documentation

"Control Room Log Unit 1 [REDACTED] The log indicates that: the plant was in reactor mode 5a; three licensed operators were on duty in the control room; and an entry was made on [REDACTED] 7C

[REDACTED] Exhibit 5).

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

"Control Room Log Unit 1 [REDACTED]

[REDACTED] Exhibit 6).

"Control Room Log Unit 1 [REDACTED]

[REDACTED] (Exhibit 7).

Testimony

In addressing the allegation that licensee management failed to properly report multiple occurrences of a licensed operator sleeping in the control room, OI has interviewed the following individuals.

Interview of SCOMA (Exhibit 37)

SCOMA was interviewed by OI at his residence on February 16, 2000.

SCOMA stated that he and TILLY [REDACTED]

[REDACTED] Subsequent to the incident, he and BRANCH telephoned [REDACTED] from the MUP office, and during the ensuing conversation, [REDACTED]

(Exhibit 37, pp. 16-17).

SCOMA then made a comparison between the way in which [REDACTED]

[REDACTED] If so, perhaps he would get the same treatment [from licensee management] as [REDACTED] (Exhibit 37, p. 18).

[REDACTED] recalls that he may have been working one of the nights that [REDACTED] was relieved, but he did not recall which one (Exhibit 37, p. 5).

Agent's Note: Records indicate that SCOMA was working on July 23-24, 2000, and was in the control room between 2358 and 0011. [REDACTED] left the control room at 0012 (Exhibits 6 and 42).

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

He recalls hearing, at the time, that [REDACTED] was relieved "for sleeping." When specifically asked if [REDACTED] was sleeping, SCOMA responded, "I don't know" (Exhibit 37, pp. 5-7). 7C

SCOMA offered that [in the past] he has seen [REDACTED] "nodding off . . . eyes maybe drifting closed and head down a little bit" in the control room. He approached [REDACTED] and asked him, [REDACTED] "you still with us?" [REDACTED] responded by getting up and walking around. SCOMA noticed this around the time frame that [REDACTED] started getting relieved from duty in the control room (Exhibit 37, pp. 7-8). 7C

Nevertheless, SCOMA cannot say that [REDACTED] was "sleeping" in the control room. He was inattentive, but it was not deliberate, and did not rise to the level where SCOMA would report it to a supervisor. If [REDACTED] had been "sleeping," SCOMA would have notified a supervisor (Exhibit 37, pp. 11-12 and 21-22). 7C

Interview of BRANCH (Exhibit 38)

BRANCH was interviewed by OI at Cook on February 17, 2000.

As was the case with SCOMA, BRANCH admits being involved in the telephone call with [REDACTED] and SCOMA from the MUP office. In the conversation with [REDACTED] he told [REDACTED] that he was sorry for what happened to him and then they spoke of [REDACTED]. BRANCH admits that he and SCOMA actually did a computerized control room log search and identified the dates that [REDACTED] had been relieved. Nevertheless, BRANCH said, "At that time, it was still rumor, what happened to him" [that he had been relieved for sleeping] (Exhibit 38, pp. 9-10). 7C

BRANCH was [originally] aware that [REDACTED] had been relieved on one occasion, via rumor. During the middle of August 1999, BRANCH was sent to "C" shift to replace [REDACTED] 7C

When told by OI that his name does not appear on the shift log for any of the days that [REDACTED] was relieved, BRANCH stated that he was not in the control room on any of those days and that he does not have any firsthand knowledge of what happened to [REDACTED] (Exhibit 38, pp. 5-8).

In addition to the interviews of BRANCH and SCOMA, OI has conducted interviews with individuals on shift with [REDACTED] on the nights of the alleged incidents. The name of the individuals were obtained from the control room logs corresponding to the dates that the alleged states that [REDACTED] was relieved for sleeping. 7C

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III~~

7C

The log indicates that the following personnel were on duty and that there were three licensed ROs assigned to the Unit 1 control room:

- Ned WOLLENSLEGEL Shift Supervisor , Units 1 and 2
- Ron HARRAH Assistant Shift Supervisor, Units 1 and 2

- Mark RIEGLE Unit Supervisor, Unit 1
- Scott BEHRENS RO, Unit 1

[REDACTED]

7C

[REDACTED]

7C

Agent's Note [REDACTED] in the Unit 1 control room [REDACTED] was not present before the decision to replace [REDACTED] was made and was not interviewed.

7C

Interview of [REDACTED] (Exhibit 23)

7C

[REDACTED] was interviewed by OI at his residence on January 12, 2000.

[REDACTED] "This night shift I had hours to burn, and I just asked if I could leave early. This wasn't anything significant as far as I was tired, fatigued or anything. This was I had hours, as I recall, because like I said I only remember this one instance [REDACTED] where I was actually sent home because I did not feel and Ron did not feel that I was alert enough to be there" (Exhibit 23, pp. 14-15).

7C

To the best of his recollection, [REDACTED] was relieved because he wanted to go home early. He had worked days of overtime and he wanted to have time off (Exhibit 23, p. 16).

7C

Interview of WOLLENSLEGEL (Exhibit 29)

WOLLENSLEGEL was interviewed by OI at Cook on March 14, 2000.

On [REDACTED] WOLLENSLEGEL served in the capacity of "C" Shift Supervisor to fulfill quarterly proficiency requirements. Prior to a recent review of shift logs, pursuant to Cook's internal investigation of the [REDACTED] matter, WOLLENSLEGEL said that he did not remember that [REDACTED] had been relieved. Trying to piece the events together after the

7C

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

7C

fact, WOLLENSLEGEL assumes that HARRAH, his assistant at the time, told him that [REDACTED] was not feeling well and was relieved. Temporary shift manager or not, WOLLENSLEGEL believes that if there was a problem with somebody sleeping on duty, he would have been told. WOLLENSLEGEL added that he has no firsthand knowledge, nor had anybody told him that [REDACTED] was asleep or inattentive in the control room (Exhibit 29, pp. 8-15). 7C

Interviews of HARRAH (Exhibits 18, 28, and 39)

HARRAH was interviewed by OI at his residence and at Cook on February 2, 17, and March 14, 2000.

With respect to [REDACTED] HARRAH states that he was not aware of [REDACTED] relief, claiming that he has "no recollection whatsoever of [REDACTED] being relieved or for what reason." As the assistant shift supervisor, there are a lot of activities that go on in the control room that he is unaware of (Exhibit 28, p. 7). 7C

Interview of RIEGLE (Exhibit 27)

RIEGLE was interviewed by OI at his residence on March 14, 2000.

RIEGLE [REDACTED] unit supervisor on the evening of [REDACTED] resigned from Cook on July 31, 1999. Prior to OI's telephone call arranging his March 14, 2000, interview, he had no knowledge of the allegation that [REDACTED] had been relieved for sleeping on shift the morning of [REDACTED] or the resulting OI investigation (Exhibit 27, pp. 4-6). 7C

After having heard an explanation in detail of the allegation made against [REDACTED] RIEGLE stated that he has "no recollection of why he was relieved" (Exhibit 27, pp. 4-6). 7C

Interview of BEHRENS (Exhibit 21)

BEHRENS was interviewed by OI at his residence on February 2, 2000.

After reviewing a copy of the control room log for [REDACTED] BEHRENS recalled that he was working the 6:00 p.m. to 6:00 a.m. shift on Unit 1 with [REDACTED] and RIEGLE. After he reviewed an entry that he made in the log [REDACTED] he said that he had never made an entry in a log like that before. He recalled that [REDACTED] was relieved because he had a problem staying awake. Although he never saw [REDACTED] fall asleep, BEHRENS recalled that [REDACTED] appeared tired and was walking around trying to stay awake. He also remembered making a suggestion to 7C

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

7C

[redacted] to ask for a relief and that [redacted] agreed with him. The final decision to relieve [redacted] would have been made by RIEGLE.

7C

BEHRENS has since learned that [redacted] has been taken off shift and will not stand watch [redacted]. Rumors are that the reason for these actions were [redacted] repeated "un alertness." Although there are rumors throughout the plant regarding [redacted] falling asleep while on duty, he knows of no individual who has first hand knowledge to support such a rumor.

7C

Control Room Log Unit 1 - [redacted] (Exhibit 6)

7C

The log indicates that the following personnel were on duty and that there were three licensed ROs assigned to the Unit 1 control room:

Jeff TILLY	Shift Supervisor, Units 1 and 2
Sam PARTIN	Assistant Shift Supervisor, Units 1 and 2
Ron HARRAH	Unit Supervisor, Unit 1
Tim APPLEMAN	RO, Unit 1

7C

[redacted]

7C

Interview of [redacted] (Exhibit 23) :

[redacted] was his first day back to work following a vacation. At about 7:30 p.m. or 8:00 p.m., he began to feel tired and was already up and walking around. At approximately 10:30 p.m. or 11:00 p.m., HARRAH told him that he looked tired. [redacted] replied that he felt tired. HARRAH told him that it would probably be in their best interest if he was not there, so [redacted] left (Exhibit 23, pp. 10-11).

7C

[redacted] said that this was the first time that he had ever been sent home, or felt like he was sent home, because he was not fit for duty. It bothered him from a physical standpoint, because he knew something was [physically] wrong [redacted] (Exhibit 23, p. 12).

7C

When asked if he just did not remember falling asleep, [redacted] replied, "No. I have never actually been physically asleep that I know of while in the control room," adding that no one has ever woken him up (Exhibit 23, pp. 17-18).

7C

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

Interview of PARTIN (Exhibit 30)

Sam PARTIN, Assistant Shift Supervisor, was interviewed by OI at Cook on March 14, 2000.

PARTIN stated that his recollection of the events of [REDACTED] was that HARRAH had made a determination that [REDACTED] was too tired to continue to stand watch, and that after consultation with TILLY, HARRAH relieved [REDACTED] (Exhibit 30, p. 7). 7C

PARTIN said that he may have had a conversation with Timothy APPLEMAN, RO, in which they discussed the fact that [REDACTED] should have come to work prepared to work all night instead of half a night. Although there was no mention of [REDACTED] falling asleep, there was conversation about [REDACTED] having a very difficult time staying attentive (Exhibit 30, p. 9). 7C

PARTIN went on to say that he is not aware of any incident where [REDACTED] was sleeping [on duty], nor has anyone told him that [REDACTED] has fallen asleep (Exhibit 30, pp. 10-11). 7C

When asked what made the evening of [REDACTED] so memorable, he responded that it is not very often they send somebody home (Exhibit 30, p. 14). 7C

Interviews of TILLY (Exhibits 35 and 36)

TILLY was interviewed by OI at Cook on February 17 and March 14, 2000.

As shift supervisor on [REDACTED] TILLY said that [REDACTED] "had to leave due to apparent sleepiness, not being fully alert, not -- or at least we felt that we should have him relieved because there was a potential for him not being able to carry out his duties." TILLY said that he became aware of the situation after a discussion with HARRAH, and he then had a discussion with [REDACTED]. He added that [REDACTED] condition, sleepiness, was out of the ordinary for him (Exhibit 35, pp. 8-9). 7C

Other than the conversation with HARRAH on the night of [REDACTED], TILLY stated that no one has ever expressed a concern to him about [REDACTED] being unable to stay awake while he was working, nor has any other RO ever told him that he saw [REDACTED] sleeping (Exhibit 35, p. 15). 7C

When asked to comment on the December 1999 memorandum (Exhibit 49) from licensee management addressing incidents of individuals sleeping at the plant while on duty, TILLY believed that it pertained to incidents of contractors sleeping in radiological areas at the plant and did not have anything to do with either [REDACTED]. The topic of the letter and 7C

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

7C

the timing of the letter would be in accordance with an event that occurred in December 1999, not during the summer or November (Exhibit 35, pp. 35-37).

Interviews of HARRAH (Exhibits 18, 28, and 39)

When asked if [REDACTED] had been relieved of duty for falling asleep in the control room on [REDACTED] and whether this kind of a relief had happened in the past to individuals other than [REDACTED] HARRAH answered that [REDACTED] was not relieved for sleeping in the control room on [REDACTED] HARRAH [REDACTED] because he looked tired. [REDACTED] told him that he had just returned from vacation and did not get enough sleep prior to coming to work. HARRAH volunteered that, other than the instances involving [REDACTED] he was not aware of any other individual who was relieved for these reasons (Exhibit 18). 7C

HARRAH's observations of [REDACTED] was that he would not make it the whole shift, and that by midnight he did not believe that [REDACTED] was alert enough to be in the control room. After receiving a similar opinion from APPLEMAN, the second RO in the control the room, HARRAH informed [REDACTED] that he was going to have him relieved by a spare RO from Unit 2. Although [REDACTED] protested mildly, HARRAH told him that the issue was not open for debate (Exhibit 39, pp. 8-9). 7C

HARRAH does not recall whether he informed TILLY before or after he made the relief. He said he did not ask for TILLY's permission. He said that he made the decision, "that's my control room" (Exhibit 39, p. 10).

HARRAH added that at no point while he (HARRAH) was on duty did he ever see [REDACTED] sleeping, nor did any RO ever come to him and tell him that he saw [REDACTED] sleeping (Exhibit 39, pp. 18-19; and Exhibit 28, p. 11). 7C

Interview of APPLEMAN (Exhibit 19)

APPLEMAN was interviewed by OI at his residence on February 2, 2000.

He recalls that [REDACTED] and that [REDACTED] and HARRAH were working their first of four midnights. During the first half of the evening, he recalled that [REDACTED] told him that he had just returned from three consecutive weeks off, causing APPLEMAN to respond "Oh, we feel for you." [REDACTED] added that he did not get much sleep prior to his shift as he had just driven back from southern Indiana. 7C

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

Between 10:00 p.m. and 12:00 midnight, APPLEMAN noticed that [REDACTED] started to do the "shuffle," walking circles around his desk, purposely staying on his feet so he would not drift off. He said that [REDACTED] was "definitely very tired that night." 7C

At approximately 12:00 midnight, [REDACTED] went behind a panel to take readings. HARRAH approached APPLEMAN and inquired about [REDACTED] condition. APPLEMAN told HARRAH that he knew there was an extra RO working in the Unit 2 control room and he felt that [REDACTED] should be relieved. When [REDACTED] returned from taking the reading, he objected to being relieved by Lyle BAKER, but HARRAH said that he did not want to be put in a "position." HARRAH told [REDACTED] that if he felt all right, he could work in the plant and validate training recently received by plant equipment operators. APPLEMAN heard that [REDACTED] went to TILLY and told him that he did not think he should have been relieved and that he was going to go home if he was not going to be allowed to work in the control room. 7C

Based on his previous working experiences with [REDACTED] APPLEMAN said that he does not recall that fatigue had affected [REDACTED] in the past, and the incident of [REDACTED] seemed to be out of the ordinary. 7C

In trying to explain the rumors at the plant that [REDACTED] was relieved for falling asleep, APPLEMAN believed that they came about in response to the [REDACTED]. APPLEMAN believes that individuals at the plant were advising [REDACTED]. 7C

[REDACTED] 7C

Interview of BEHRENS (Exhibit 21)

BEHRENS recalls that on [REDACTED] he was working the midnight shift on Unit 2 when BAKER, who was assigned to Unit 2, was called on to replace [REDACTED] on Unit 1. BEHRENS's reaction was "There he goes again," meaning being relieved from duty. 7C

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

7C

The log indicates that the following personnel were on duty, and that there were three licensed ROs assigned to the Unit 1 control room:

- Jeff TILLY Shift Supervisor, Units 1 and 2
- Charles ARCHEY Assistant Shift Supervisor, Units 1 and 2
- Greg HENNING Unit Supervisor, Unit 1
- Jeff MONROE RO, Unit 1

7C

[redacted]

7C

Interviews of [redacted] (Exhibits 23 and 24)

Although [redacted] has no recollection why he was relieved on [redacted] he does not believe it was because he was tired or that it pertained to a fitness for duty issue (Exhibit 23, p. 20; and Exhibit 24, p. 5)

7C

Interviews of TILLY (Exhibits 35 and 36)

Not remembering exactly what happened on [redacted] TILLY said that [redacted] was not even scheduled to be on duty in the control room that day. TILLY stated that [redacted] had been working on a procedure project and was called to cover for an RO who arrived later in the morning. [redacted] subsequent relief had nothing to do with a fitness for duty issue (Exhibit 35, pp. 10-11).

7C

Although TILLY admits that an inattentive RO does not meet the expectations for safe and effective operation of a plant, and the failure to write an adverse CR was an oversight, he believes that the appropriate action was taken in having [redacted] relieved. At the time of his relief, [redacted] had not missed any duties or had any errors (Exhibit 35, pp. 21-25).

7C

Interview of ARCHEY (Exhibit 26)

ARCHEY was interviewed by OI at Cook on March 14, 2000.

On [redacted] ARCHEY, who was normally assigned to "A" shift, was working overtime for "C" shift in the capacity of assistant shift supervisor. He was working in the WCC, not the control room (Exhibit 26, p. 5).

7C

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

7C

Although he has no recollection of the particular night, he later learned from HARRAH that [REDACTED] had been sent home twice "because he just wasn't attentive, like I say, he was groggy, he was having trouble, you know, functioning in the control room, so he said, hey, we relieved him, sent him home" (Exhibit 26, p. 9). 7C

ARCHEY has never heard anyone say that [REDACTED] fell asleep in the control room (Exhibit 26, p. 11). 7C

Interview of HENNING (Exhibit 31)

HENNING was interviewed by OI at Cook on March 14, 2000.

HENNING, who was working with [REDACTED] in the control room, has no recollection leading to the circumstances for [REDACTED] (Exhibit 31, p. 7-8). 7C

Interview of MONROE (Exhibit 20)

MONROE was interviewed by OI at his residence on February 2, 2000.

MONROE, who was on duty with [REDACTED] in the control room, recalled that [REDACTED] had been relieved because "he had trouble staying awake," not for having fallen asleep. When asked if he had observed [REDACTED] MONROE replied that "he could not say that he did, and I could not say that he didn't." He added that if he had seen [REDACTED] sleeping while on duty he would say so. He has no reason or desire to lie, nor is he afraid of retribution from licensee management, believing that licensee management would support the truth. 7C

Internal Investigation Conducted by AEP (Exhibit 47)

AEP's investigation into the allegation that [REDACTED] was asleep in the control room was conducted by Perry D. ROBINSON, Esq., Hopkins and Sutter. The investigative report, which is dated April 27, 2000, was received and reviewed by OI. The report concluded that, although a few individuals observe [REDACTED] his behavior occurred after [REDACTED] and after he had been taken off control room duties. The licensee's investigation did not develop any information that [REDACTED] ever fell asleep in the control room (Exhibit 47, p. 15) 7C

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

OI has interviewed two of the individuals who witnessed [redacted] falling asleep in the WCC, Mike HARRINGTON and Lloyd BURRIS. Their interviews confirm that they had witnessed [redacted]. Their transcripts are part of this report (Exhibits 45, pp. 5-8; and Exhibit 44, pp. 7-8). 7C

Agent's Analysis

OI interviewed every RO and supervisor working with [redacted] on the 3 days in question. Not one individual has said that he had seen [redacted] sleeping on duty in the control room. Although the ROs working with [redacted] on the 3 days in question all say that [redacted] was relieved because he was tired, [redacted] immediate supervisors on duty state that [redacted] was relieved for being tired only on [redacted]. In spite of the seemingly contradictory information received from [redacted] co-workers and supervisors, OI has been unable to develop any evidence that [redacted] was asleep in the control room; therefore, the theory of a coverup by management by failing to properly report the incidents is moot. 7C

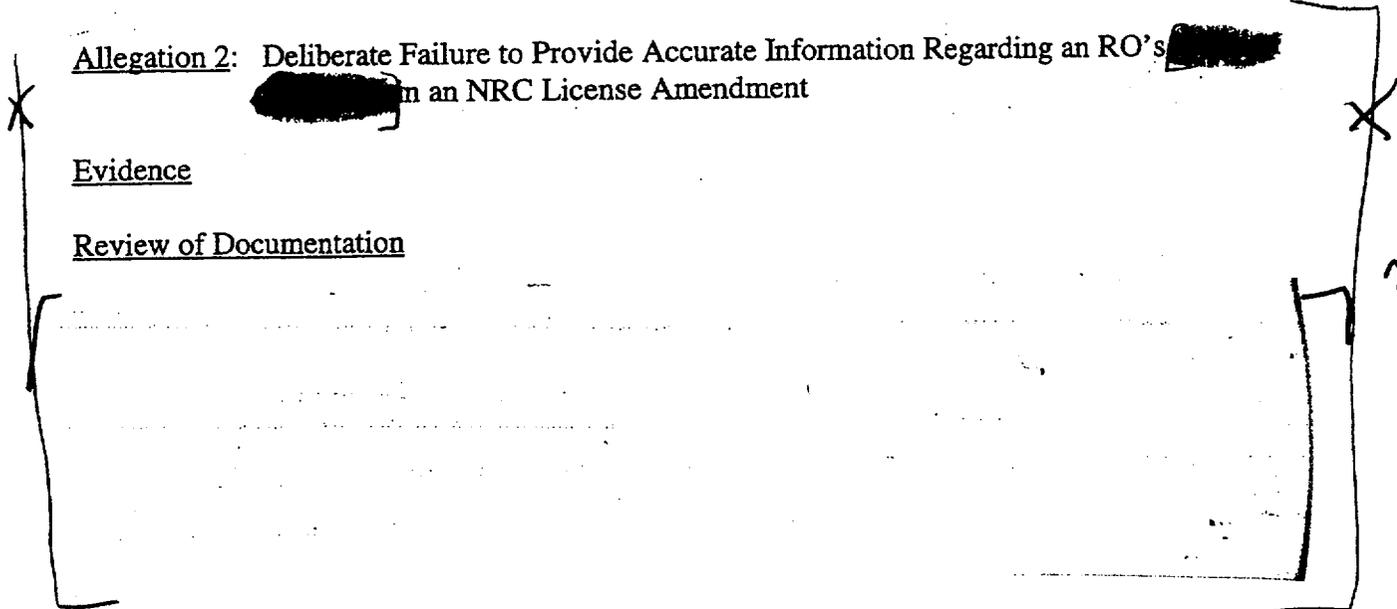
Conclusion

OI has been unable to develop any evidence that [redacted] was relieved for sleeping in the control room, and therefore, the allegation of a deliberate failure to report such incidents is unsubstantiated.

Allegation 2: Deliberate Failure to Provide Accurate Information Regarding an RO's [redacted] in an NRC License Amendment

Evidence

Review of Documentation



**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

7C

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

Case No. 3-2000-001

21

7C

7C

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

7C

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

Case No. 3-2000-001

23

7c

7c

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

Case No. 3-2000-001

24

7C

[Redacted content]

7C

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

Case No. 3-2000-001

25

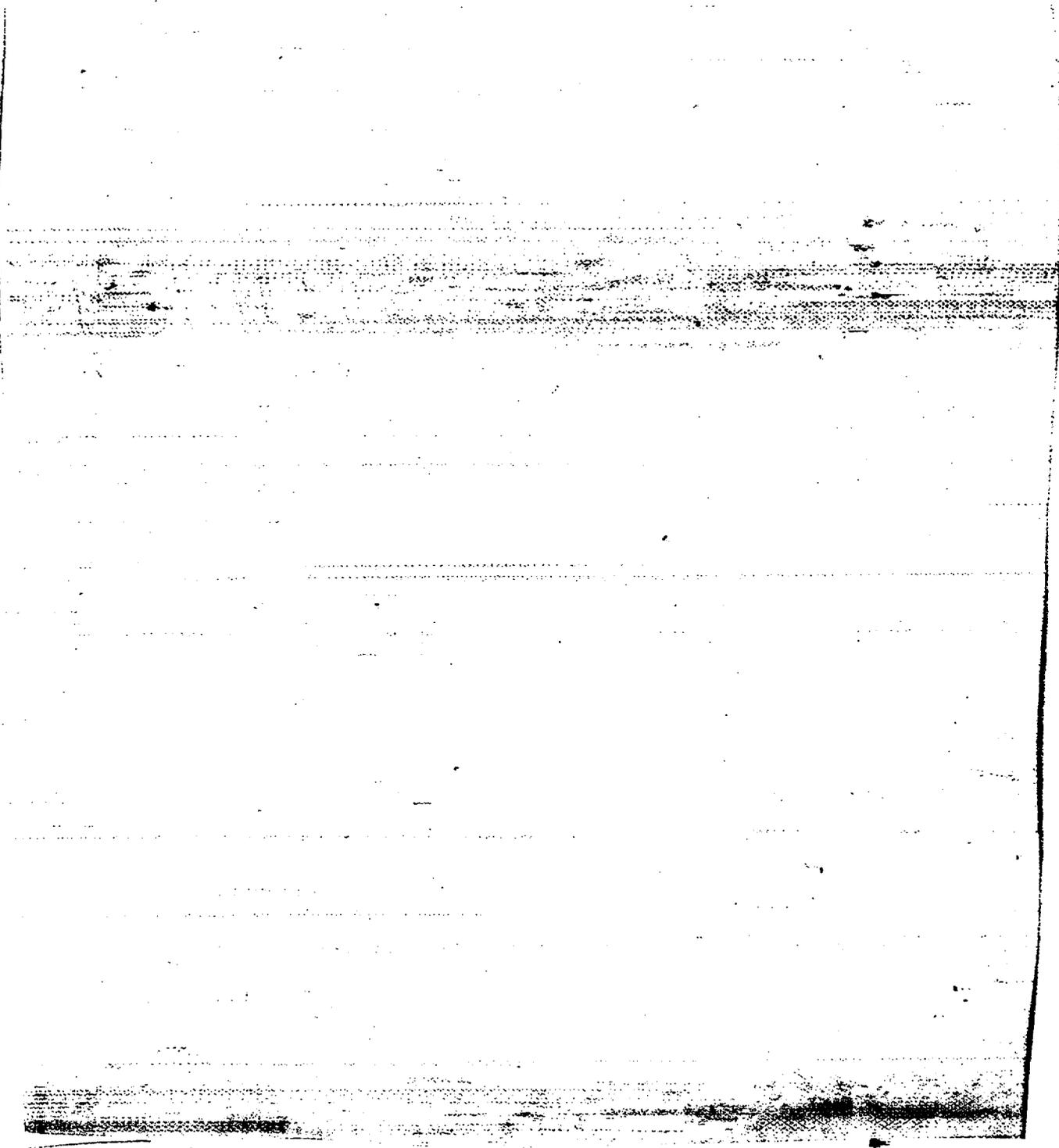
7C

NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III

Case No. 3-2000-001

26

7C



**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

7c

Conclusion

OI has been unable to develop any evidence that licensee management provided inaccurate information to the NRC concerning [REDACTED]

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III~~

7C

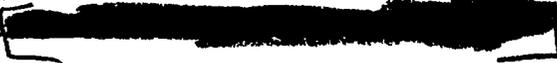
7C

7C

SUPPLEMENTAL INFORMATION

The following information is being provided for the NRC staff's review:

AEP's Corrective Action Program, PMI-7030, describes an "Adverse Condition of Event" as "anything that if left uncorrected could adversely impact safety, quality, or operability, or which does not meet individual (your) expectations for the safe and effective operation of D.C. Cook Nuclear Power Plant."

This investigation developed an issue on whether TILLY and/or HARRAH were obligated to have initiated a CR despite  7C

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

THIS PAGE LEFT BLANK INTENTIONALLY

**~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III~~**

LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Investigation Status Record, Case No. 3-2000-1, dated January 4, 2000.
2	Memorandum from J. ADAMS to AMS File RIII-1999-A-0204, dated December 8, 1999.
3	Memorandum from J. HELLER/J. ADAMS to D. HILLS, dated December 9, 1999, transmitting Allegation Action Plan. A. OI Allegation Review Board Information Sheet, Allegation No. RIII-99-A-0204, dated January 4, 2000.
4	Time Line of Events Pertaining to Allegation and Subsequent Investigation.
5	Control Room Log Unit 1 [REDACTED] 1C
6	Control Room Log Unit 1 [REDACTED]
7	Control Room Log Unit [REDACTED]
8	Operations Department Organization Chart as of December 27, 1999.
9	1999 Operations Department Shift Schedule.
10	August 11, 1999, letter from Tom NOONAN, Plant Manager, Cook, to David HILLS, Operator Licensing Branch, NRC:RIII, with attached [REDACTED] 7C
11	[REDACTED] 1C
12	September 27, 1999, letter from Robert C. GODLEY, Director of Regulatory Affairs, to HILLS.

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III~~

7C

13

[REDACTED]

7C

14

[REDACTED]

7C

15

November 10, 1999, NRC License Amendment for [REDACTED]

16

December 22, 1999, letter from GODLEY to James E. DYER, NRC:RIII.

17

February 1, 2000, NRC License Amendment for [REDACTED]

7C

18

Interview Report of HARRAH, dated February 2, 2000.

19

Interview Report of APPLEMAN, dated February 2, 2000.

20

Interview Report of MONROE, dated February 2, 2000.

21

Interview Report of BEHRENS, dated February 2, 2000.

22

Transcribed Interview of [REDACTED] dated January 12, 2000.

7C

23

Transcribed Interview of [REDACTED] dated January 12, 2000.

7C

24

Transcribed Interview of [REDACTED] dated February 16, 2000

25

Transcribed Interview of [REDACTED] dated March 13, 2000.

7C

26

Transcribed Interview of ARCHEY, dated March 14, 2000.

27

Transcribed Interview of RIEGLE, dated March 14, 2000

28

Transcribed Interview of HARRAH , dated March 14, 2000

29

Transcribed Interview of WOLLENSLEGEL, dated March 14, 2000

30

Transcribed Interview of PARTIN, dated March 14, 2000

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

7C

- 31 Transcribed Interview of HENNING, dated March 14, 2000
- 32 Interview Report of [REDACTED] dated February 25, 2000. 7C
- 33 [REDACTED] 7C
- 34 [REDACTED] 7C
- 35 Transcribed Interview of TILLY, dated February 17, 2000.
- 36 Transcribed Interview of TILLY, dated March 14, 2000.
- 37 Transcribed Interview of SCOMA, dated February 16, 2000.
- 38 Transcribed Interview of BRANCH, dated February 17, 2000.
- 39 Transcribed Interview of HARRAH, dated February 17, 2000.
- 40 Handwritten statement from [REDACTED] dated January 8, 2000. 7C
- 41 Corrective Action Program, PMI-7030-Rev. 28, dated October 15, 1999.
- 42 Security Access Logs [REDACTED] 7C
- 43 Telephone Conversation with [REDACTED] dated April 5, 2000.
- 44 Transcribed Interview of BURRIS, dated April 18, 2000.
- 45 Transcribed Interview of HARRINGTON, dated April 18, 2000.
- 46 Transcribed Interview of [REDACTED] dated April 17, 2000. 7C
- 47 AEP Investigative Report, dated April 27, 2000.
- 48 Transcribed Interview of [REDACTED] dated April 17, 2000. 7C
- 49 Memorandum from J. E. POLLOCK to All Nuclear Generation Employees, dated December 2, 1999, re: Plant Manager Expectations.

**NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION III**

7C /