

December 4, 2000

IA-00-028

Mr. Garner W. Reed  
[HOME ADDRESS DELETED  
UNDER 10 CFR 2.790(a)]

SUBJECT: ORDER PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITIES  
(NRC OFFICE OF INVESTIGATIONS REPORT NO. 3-1999-028)

Dear Mr. Reed:

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. The OI investigation determined that you deliberately failed to divulge your complete criminal arrest history when applying for unescorted access to the Salem, Point Beach and Donald C. Cook Nuclear Power Plants.<sup>1</sup> Furthermore, you deliberately failed to notify plant officials that you were arrested for operating a motor vehicle while you were under the influence of alcohol during your periods of employment at the Salem and Point Beach facilities. Also, you provided incomplete and/or inaccurate information about an arrest for possession of marijuana and a stolen motorcycle during the interview with the OI investigator.

The enclosed Order prohibits your involvement in NRC-licensed activities for a period of one year. In addition, for one year following the one-year period of prohibition, the Order requires you to notify the NRC each time you accept employment involving NRC-licensed activities or your becoming 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.

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

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<sup>1</sup> The OI investigation also established that you deliberately failed to divulge your complete criminal arrest history when applying for access to the Watts Bar Nuclear Power Plant. However, the Watts Bar Plant was not required to implement the requirements of 10 CFR 73.56 at all times during your employment; therefore, no reference has been made to your employment at the Watts Bar Plant in the enclosed Order.

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. 50-266; 50-272; 50-301;  
50-311; 50-315; 50-316; 50-390  
Licenses No. DPR-24; DPR-27; DPR-58;  
DPR-70; DPR-74; DPR-75; NPF-90

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION

In the Matter of  
Garner W. Reed

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IA-00-028

ORDER PROHIBITING INVOLVEMENT IN  
NRC-LICENSED ACTIVITIES

I

Garner W. Reed was employed by Public Service Electric & Gas Company (Licensee) at the Salem Nuclear Power Plant (Salem) from on or about August 13, 1996, to November 12, 1997. The licensee is the holder of Licenses No. DPR-70 and DPR-75 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50 on June 30, 1977, and October 13, 1981, respectively. The Salem facility is located near Wilmington, DE.

Mr. Reed was employed by the Wisconsin Electric Power Company (Licensee) at the Point Beach Nuclear Power Plant, Units 1 and 2 (Point Beach), from on or about November 17, 1997 to April 30, 1999. The Licensee is the holder of Licenses No. DPR-24 and DPR-27 issued by the Commission pursuant to 10 CFR Part 50 on October 5, 1970 and March 8, 1973, respectively. The Point Beach facility is located near Manitowoc, WI.

On May 13, 1999, Mr. Reed, applied for unescorted access to the Donald C. Cook Nuclear Power Plant, Units 1 and 2 (D.C. Cook), which is operated by the American Electric Power Company (Licensee or AEP). The Licensee is the holder of Licenses No. DPR-58 and DPR-74, issued by the Commission pursuant to 10 CFR Part 50 on October 28, 1975 and July 1, 1978, respectively. The D.C. Cook plant is located near Bridgeman, MI.

In applying for unescorted access to the D.C. Cook Plant, on May 13, 1999, Mr. Reed was required to explain any arrests, pending charges, or convictions within the five years prior to the date of application. While Mr. Reed indicated that he had been convicted of operating a motor vehicle while intoxicated (OWI) prior to his employment at the Point Beach, Mr. Reed failed to disclose that he had been arrested while he was employed at the Point Beach Plant.

Representatives of the D. C. Cook Plant learned of the potentially false information provided by Mr. Reed and contacted personnel at the Point Beach Plant about Mr. Reed's arrest record. It was determined by the D. C. Cook licensee that Mr. Reed had not notified officials at the Point Beach Plant about his arrest in Two Rivers, WI, while he was employed at that facility. The NRC learned of Mr. Reed's failure to report arrests during a routine security inspection at the Point Beach Plant on July 30, 1999. As a result of this information, the NRC Office of Investigations (OI) conducted an investigation into the apparent deliberate failures by Mr. Reed to fully disclose his arrest information to NRC Licensees.

Information obtained during the OI investigation indicated that Mr. Reed was arrested and subsequently convicted of:

Possession of marijuana, receiving and concealing stolen property in Mobile, AL, on or about June 22, 1976,

Driving under the influence of alcohol in Louisiana on May 13, 1993,<sup>2</sup>

Operating while intoxicated (OWI) in Huntsville, AL, during November 1993,

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<sup>2</sup> Mr. Reed admits to having held a driver's license issued by the State of Louisiana, but denies having been arrested for OWI in that statement. However, official records indicate the existence of this arrest in the State of Louisiana.

OWI in Hamilton County, TN, on November 16, 1994,

OWI in Hamilton County, Chattanooga, TN, on October 17, 1995, alternately reported as Ringgold, GA,<sup>3</sup>

OWI in Woodstown, NJ, on October 5, 1997,

OWI in New Jersey on January 11, 1998<sup>4</sup>, and

OWI in Two Rivers, WI, on April 10, 1999.

Other information gathered during the OI investigation indicated that:

Mr. Reed failed to notify, as required by the Licensee's NRC approved physical security plan, the Salem Plant of at least one arrest, ( the arrest that occurred in Woodstown, N.J. on October 5, 1997), while he was employed at that facility,

Mr. Reed failed to notify, as required by the Licensee's NRC approved physical security plan, the Point Beach Plant of his arrest on April 10, 1999 in Two Rivers, WI, while he was employed at that facility, and

Mr. Reed failed to list, as required by the Licensee's NRC approved physical security plan, his arrests on November 16, 1994(in Hamilton County, TN), October 17, 1995 (in Chattanooga, TN), and April 10, 1999 (in Two Rivers, WI), on his application for unescorted access to the Cook Plant.

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<sup>3</sup> Chattanooga, TN, Hamilton County, TN, and Ringgold, GA, are nearby communities.

<sup>4</sup> Mr. Reed alternately indicates that this arrest occurred in early 1997 and on January 11, 1998, in the State of New Jersey, but does not recall the specific jurisdiction. This arrest was not listed on official records.

During his sworn, transcribed interview with the OI investigator on November 4, 1999, Mr. Reed admitted that he knew he was required to report his arrests to the Licensees, but stated that he was afraid he would lose his job in the nuclear industry if the Licensees learned of all of his OWI arrests.

10 CFR 73.56(b) requires NRC licensees<sup>5</sup> to establish and maintain access authorization programs to grant individuals unescorted access to the protected and vital areas of nuclear power plants. These programs and the implementing procedures at each plant require individuals seeking unescorted access to divulge their criminal history for evaluation and to identify to the licensee any subsequent arrests after having been granted unescorted access to the facility. Furthermore, 10 CFR 50.5(a)(2) provides that an employee of a licensee or an employee of a contractor of any licensee may not deliberately submit to the NRC or a licensee or a licensee's contractor information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC. An individual's criminal history is material to the NRC because it is part of the information a licensee evaluates to provide high assurance that individuals granted unescorted to NRC licensed facilities are trustworthy and reliable, and do not constitute an unreasonable risk to the health and safety of the public including a potential to commit radiological sabotage (10 CFR 73.56(b)).

Based on the information developed during the OI investigation, it was concluded that Mr. Reed deliberately submitted information concerning his criminal history to the licensees operating Salem, Point Beach and D.C. Cook facilities that he knew was incomplete and inaccurate.

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<sup>5</sup> These programs were required to be implemented at Salem, Point Beach and D.C. Cook by April 27, 1992. See 10 CFR 73.56(a).

Furthermore, Mr. Reed provided inaccurate information to the OI investigator during a sworn, transcribed interview on November 4, 1999. Mr. Reed stated that his arrest on June 22, 1976, was for possession of stolen property, the charges against him were dropped and he was subsequently cleared of the charges. Mr. Reed failed to disclose that he was arrested for possession of marijuana, along with receiving and concealing stolen property. Mr. Reed also failed to divulge that he was convicted on both of those charges with a suspended jail sentence of 36 months and placed on probation for a period of 36 months.

### III

Based on the above, it appears that Garner W. Reed, a former employee of the Licensees, has engaged in deliberate misconduct in violation of 10 CFR 50.5. The NRC must be able to rely on its licensees and the employees of its licensees to comply with NRC requirements, including the requirement to provide information that is complete and accurate in all respects material to the NRC. Garner W. Reed's deliberate actions in making deliberate misrepresentations and omissions to the Licensees and to the NRC have raised serious doubt as to whether he can be relied upon to comply with NRC requirements and to provide complete and accurate information to the NRC and NRC licensees.

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 Garner W. Reed were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Garner W. Reed be prohibited from any involvement in NRC-licensed activities for a period of one year from the date of this Order. Additionally, Garner W. Reed for a period of one year is

required to notify the NRC of his employment in NRC-licensed activities following the prohibition period.

#### IV

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 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, 10 CFR 73.56, and 10 CFR 150.20, IT IS HEREBY ORDERED THAT:

1. Garner W. Reed is prohibited for one year 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 Garner W. Reed is currently involved with another licensee in NRC-licensed activities, he 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 one year after the one year period of prohibition has expired, Garner W. Reed 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, DC 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, Garner W. Reed shall include a

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

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Garner W. Reed of good cause.

## V

In accordance with 10 CFR 2.202, Garner W. Reed 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 Garner W. Reed 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 Associate General Counsel for Hearings, Enforcement & Administration at the same address, to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, IL 60532-4351 and to Garner W. Reed if the answer or hearing

request is by a person other than Garner W. Reed. If a person other than Garner W. Reed 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 Garner W. Reed 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 4th day of December 2000