

February 21, 2001

Enforcement Officer,
NRC Region III
801 Warrenville Road
Lisle, Illinois, 60532-4351

Enforcement Officer:

In reply to your letter dated February 9, 2001 re: IA-01-009 I wish to express exception to the statements made by American Electric Power Company.

Attachment to C0101-04 item number 2 stated that on November 1, 2000, I had taken a FFD test due to "cause;" I willingly complied to take fitness for duty testing. I had not consumed alcohol within the guidelines of our plant procedure. The test results proved I was not in violation of plant procedures for Fitness for duty (FFD). I agree with the statement that the Operations department decided to send me home, even though I did not violate the plant FFD procedure. The Operations representative told me I would be called later that afternoon to inform me when I should report back to work. When I did not receive any telephone calls from Operations, I tried several times to call and get my return date with no response from Operations. I was not called by the Operations Department for several days. I was not granted permission to return to work on my next scheduled shift as stated in the attachment. I did not return to work until I initiated contact and gained approval from the Operations Department.

At this time I was concerned that I was being singled out because of operability concerns that I had raised with the Control Room team during the restart of Cook Nuclear Plant. I believed that the concerns regarding FFD were directly related to that issue.

It is correct that on the date of November 19, 2000, a Shift Technical Advisor stated that he believed he smelled alcohol on my breath, however, I had not consumed any alcohol prior to 1830 Saturday November 18, 2000. When I was approached, I decided that I would resign as I thought I would be continually challenged because of the concerns I had raised about the operability concerns of the Cook Plant. At this point I announced I was resigning from the Cook Nuclear Plant; I was not asked or directed to perform a Fitness for Duty test; and therefore unaware that I would be charged with refusal of "for cause" and that my permanent record would reflect this false accusation.

I am dedicated to the safe and reliable operation of the D.C. Cook Nuclear Plant, which is why I believe I was being "forced" to resign my position as Reactor Operator. Since the restart effort, I believe AEP D.C. Cook Nuclear Plant has made decisions regarding plant equipment that is contrary to the safe and reliable operation of a nuclear facility, which I had made my opinions noted to the Control Room team. Therefore, I believed I was being "singled out" by Operations Management.

On the date in question November 19, 2000, I resigned my position at D.C. Cook Nuclear plant. I do not regret my decision to resign from D.C. Cook Nuclear Plant, as I believe I will better serve a company that has strong beliefs of "safety and reliability" that has the trust and confidence placed in me as an individual with integrity and morals to protect the public.

Sincerely,



Joseph D. Bieri

02-27-01 12:54 IN



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION III
801 WARRENVILLE ROAD
LISLE, ILLINOIS 60532-4351

February 9, 2001

IA-01-009

Joseph Bieri
[HOME ADDRESS DELETED
UNDER 10 CFR 2.790]

SUBJECT: NOTICE OF VIOLATION

Dear Mr. Bieri:

The U.S. Nuclear Regulatory Commission (NRC) received a letter, dated December 15, 2000, from the American Electric Power Company (AEP) informing us that AEP no longer had a need to maintain your operating license for the D. C. Cook Nuclear Power Plant. We also received a letter dated January 12, 2001, from AEP containing information about your refusal to participate in the fitness-for-duty program at the Cook Plant. A copy of each letter is enclosed and we plan to place the letters from AEP in your 10 CFR Part 55 docket file.

The NRC had previously notified you, in a letter dated December 19, 2000, that your license, No. OP-31047, had expired in accordance with 10 CFR 55.55(a), effective December 15, 2000. In addition, the following violation is being issued on your docket:

10 CFR 55.53(k) requires that each licensed operator at a power reactor participate in the drug and alcohol testing program established pursuant to 10 CFR Part 26.

Contrary to the above, on November 19, 2000, you did not participate in the 10 CFR Part 26 drug and alcohol testing program at the D. C. Cook Nuclear Power Plant. Specifically, the Shift Supervisor and Assistant Operations Manager confronted you about your fitness-for-duty. Rather than submitting to fitness-for-duty testing, you resigned your employment and immediately exited the protected area without providing a specimen for testing. (01013)

This is a Severity Level III violation. (Supplement I)

The purpose of the Commission's fitness-for-duty requirements is to provide reasonable assurance that nuclear power plant personnel work in an environment that is free of drugs and alcohol and the effects of the use of these substances. Your refusal to participate in the power reactor licensee's fitness-for-duty program is a serious matter which undermines the special trust and confidence placed in you as a licensed operator. This violation is categorized as a Severity Level III violation in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, because the refusal to participate in fitness-for-duty testing by a licensed operator is a significant regulatory concern. Since your license has expired, you are not required to respond to the Notice of Violation at this time **unless you contest the violation**. Should you contest the Notice of Violation, a response is required

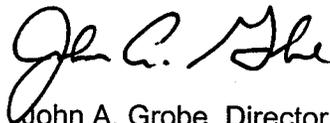
30 days of the date of this letter addressing the specific basis for disputing the violation. This response should be sent to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, Illinois, 60532-4351 and marked, "Open by Addressee Only." At the same time, a copy shall be sent to the Enforcement Officer at the same address and a copy shall be sent to the Director, NRC Office of Enforcement, Washington, DC 20555.

The purpose of this letter is to make clear to you the consequences of your violation of the NRC requirements governing fitness-for-duty as a licensed operator, in accordance with 10 CFR Part 55. If you reapply for an operating license, you will need to satisfy not only the requirements of 10 CFR 55.31, "How to Apply," but also those of 10 CFR 2.201, "Notice of Violation," by addressing the reasons for the violation and the actions you have taken to prevent recurrence in order to ensure your ability and willingness to carry out the special trust and confidence placed in you as a licensed operator and to abide by all fitness-for-duty and other license requirements and conditions.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, enforcement actions are made 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). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room). A copy of this letter without its enclosures and with your address removed will be made available to the Public unless you provide a sufficient basis to withdraw this violation within the 30 days specified above for a response to this Notice of Violation.

Should you have any questions concerning this action, please contact David E. Hills of my staff. Mr. Hills can be reached at either the address listed above or telephone number (630) 829-9733.

Sincerely,



John A. Grobe, Director
Division of Reactor Safety

Docket No. 55-32160
License No. OP-31047

Enclosures: As stated

cc w/encls: R.P. Powers, Senior Vice President
Nuclear Engineering Group, AEP

J. Bieri

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