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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

January 2, 1997

IA 96-103

Mr. Cecil Ray Owen  
[HOME ADDRESS DELETED  
UNDER 10 CFR 2.790]

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

Dear Mr. Owen:

The enclosed Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately) is being issued because of your deliberate misconduct in violation of 10 CFR 50.5 of the Commission's regulations. Specifically, in 1995, you deliberately failed to state your complete employment history on your application for employment with Westinghouse Electric Corporation at the North Anna Power Station in order to conceal that you had tested positive for use of controlled substances while working for a previous employer. Based on your actions, the Order prohibits your involvement in NRC-licensed activities for a period of one year and requires your notification of the NRC of your first involvement in NRC-licensed activities for one year following the prohibition period.

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.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if you choose to submit one, will be placed in the NRC Public Document Room (PDR). To the extent possible, any response should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction. However, if you find it necessary to include such information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.

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PDR ADDCK 05000338  
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Mr. Cecil Ray Owen

- 2 -

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

Sincerely,



James L. Milhoan  
Deputy Executive Director  
for Nuclear Reactor Regulation,  
Research, and Regional Operations

Enclosure: Order Prohibiting Involvement  
in NRC Licensed Activities

cc w/enc1 [HOME ADDRESS DELETED]:  
Virginia Electric and Power Company  
ATTN: Mr. J. P. O'Hanlon  
Senior Vice President - Nuclear  
Innsbrook Technical Center  
5000 Dominion Boulevard  
Glen Allen, VA 23060

UNITED STATES  
NUCLEAR REGULATORY COMMISSION

In the Matter of  
CECIL RAY OWEN

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IA 96-103

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

I

Between January 25, 1995 and May 23, 1995, Mr. Cecil Ray Owen was employed by Westinghouse Electric Corporation (WEC) as a millwright at Virginia Electric and Power Company's (VEPCO) North Anna Power Station (NAPS). VEPCO holds License Nos. NPF-4 and NPF-7 for North Anna Units 1 and 2, issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50 on April 1, 1978 and August 21, 1980, respectively. The licenses authorize VEPCO to operate NAPS in accordance with the conditions specified therein. WEC is a contractor to VEPCO and provides various services at NAPS.

II

10 CFR 73.56 requires, in part, that nuclear power plant licensees implement access authorization programs or accept a contractor's access authorization program for individuals seeking unescorted access to protected and vital areas of nuclear power plants. The objective of the regulation is to provide 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. The unescorted access authorization program must include a background investigation, including an individual's employment history. The decision to grant unescorted access authorization must be based upon the licensee's review and evaluation of all pertinent information developed.

III

In order to be certified for unescorted access at NAPS, Mr. Owen was required to complete a WEC preemployment security questionnaire which included a requirement that he list all prior employment for the last five years. Mr. Owen completed the questionnaire in January 1995. The questionnaire was used by WEC to conduct a background investigation. Mr. Owen was granted unescorted access authorization to NAPS on the basis of information he submitted on this WEC preemployment security questionnaire. Information regarding prior drug usage is material to the NRC in that licensee fitness-for-duty programs must provide reasonable assurance that plant personnel will perform their tasks in a reliable and trustworthy manner and are not under the influence of any substance, legal or illegal, which in any way adversely affects their ability to safely and competently perform their duties. Fitness-for-duty programs must also provide reasonable measures for early detection of persons not fit to perform activities. Withholding information regarding prior drug usage circumvents these provisions of the fitness-for-duty programs. Deliberate misconduct demonstrates untrustworthiness to conduct activities at an NRC-licensed facility.

The Nuclear Regulatory Commission Office of Investigations (OI) conducted an investigation, completed on June 26, 1996, which found that Mr. Owen completed the WEC background questionnaire for a position at NAPS and deliberately failed to identify previous employment, within the five year period, where his employment was terminated for a positive drug test.

The deliberate misconduct rule in 10 CFR 50.5(a)(2) provides, in part, that an employee of a licensee, or employee of a contractor or subcontractor of a licensee, may not deliberately submit to the licensee, or the licensee's contractor or subcontractor, information that the employee knows to be incomplete or inaccurate in some respect material to the NRC. Mr. Owen violated this provision in that he was employed by WEC, a contractor to VEPCO, an NRC licensee, and deliberately provided information to WEC that was not complete, in that he did not identify one previous employer on an access authorization questionnaire he filled out at WEC's request. This information was material to the NRC as WEC and VEPCO relied on it in order to satisfy the requirement of 10 CFR Part 26 (Fitness for Duty Programs) and 10 CFR 73.56 (Personnel access authorization requirements for nuclear power plants).

Other pertinent information call into question Mr. Owen's credibility and trustworthiness. Mr. Owen, when questioned by OI, did not admit that he had falsified the questionnaire. Mr. Owen asserted that the questionnaire he completed had a statement on the bottom that only those periods of employment in excess of 30 days be included. When confronted with a photocopy of the questionnaire he signed, which contained instructions to list all employment for the previous five years, Mr. Owen remained steadfast in his assertion that the form he signed only required periods of employment in excess of 30 days. During the OI interview, Mr. Owen repeatedly denied using illegal drugs. However, when confronted with the laboratory results from his previous employer, Mr. Owen admitted that he used marijuana on isolated occasions.

Mr. Owen also told OI that he had not begun working at NAPS when he was advised of his denial of unescorted access when, in fact, he was employed at NAPS during the period between January 25 and May 23, 1995.

On August 19, 1996, the NRC sent a certified letter to Mr. Owen advising him of the apparent violation of NRC requirements and offering him the opportunity to attend a predecisional enforcement conference. The letter required a written response within 30 days of receipt and advised Mr. Owen that if he decided not to participate in a conference, the NRC would proceed based on the OI findings. After Mr. Owen received the letter, he telephoned Mr. A. Gibson, Director, Division of Reactor Safety, in the Region II office. Mr. Owen commented that a ban would affect his livelihood in that a large portion of his work was at nuclear sites. Mr. Gibson said that Mr. Owen should address this potential impact in his written response. As of the date of this Order, the NRC had not received a written response from Mr. Owen.

#### IV

Based on the results of the OI investigation and the lack of any additional information from Mr. Owen, the staff concludes that Mr. Owen's omission was deliberate and in violation of 10 CFR 50.5(a)(2).

The NRC must be able to rely on licensees, contractors and their employees to provide information that is complete and accurate in all material respects. This is essential with respect to access authorization programs at nuclear power plants because: (1) temporary access determinations are made on the

basis of information provided by individuals prior to completion of a full background check; and, (2) the purpose of an access authorization program is to assure the trustworthiness and reliability of individuals granted unescorted access. Mr. Owen's deliberate omission raises serious doubt 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. His omission also raises doubts about his trustworthiness and reliability.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with Commission requirements and that the health and safety of the public will be protected if Mr. Owen were permitted at this time to be involved in NRC-licensed activities. Therefore, public health and safety and the public interest require that Mr. Owen be prohibited from any involvement in NRC-licensed activities for a period of one year from the date of this Order and, if he is currently involved with another licensee in NRC-licensed activities, he 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. Owen is required to notify the NRC of his first employment in NRC-licensed activities for one year following the prohibition period. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Mr. Owen's conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

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 and 10 CFR 150.20, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

- A. Mr. Cecil Ray Owen is prohibited for one year from the date of this Order from engaging in or exercising control over individuals engaged in NRC-licensed activities, including obtaining unescorted access at an NRC-licensed facility. If Mr. Owen is currently involved in NRC licensed activities, he must immediately cease such activities, inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer. 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.
  
- B. For one year following the period of prohibition set forth in Paragraph V.A. above, Mr. Cecil Ray Owen shall, within 20 days of his acceptance of his first employment offer involving NRC-licensed activities as defined in Paragraph V.A 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 NRC-licensed activities.

The notice 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 relax or rescind, in writing, any of the above conditions upon demonstration by Mr. Owen of good cause.

## VI

In accordance with 10 CFR 2.202, Mr. Owen 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. Owen 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, Docketing and Service Section, Washington, D.C. 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission,

Washington, D.C. 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, and to the Regional Administrator, NRC Region II, 101 Marietta Street, NW, Suite 2900, Atlanta, Georgia 30323 and to Mr. Owen if the answer or hearing request is by a person other than Mr. Owen. If a person other than Mr. Owen 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).

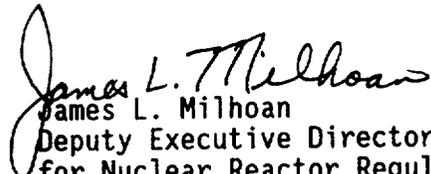
If a hearing is requested by Mr. Owen or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Owen may, in addition to demanding a hearing, at the time the 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 in which to request a hearing, the provisions specified in Section V 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 V shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

  
James L. Milhoan  
Deputy Executive Director  
for Nuclear Reactor Regulation,  
Research, and Regional Operations

Dated at Rockville, Maryland  
this 2nd day of January 1997

Mr. Cecil Ray Owen

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