



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET SW SUITE 23T85
ATLANTA, GEORGIA 30303-8931**

May 5, 2003

IA-03-021

Mr. David M. Robine
[Home Address Deleted
Under 10 CFR 2.790]

SUBJECT: NOTICE OF VIOLATION AND EXPIRATION OF LICENSE

Dear Mr. Robine:

The Nuclear Regulatory Commission (NRC) has received a letter dated February 20, 2003, from Carolina Power and Light Company (CP&L), informing us that CP&L no longer has a need to maintain your operating license for the Brunswick Steam Electric Plant, Unit Nos. 1 and 2. We also received letters dated March 18 and April 14, 2003, from CP&L containing information about your confirmed positive test for marijuana (copies of these letters are enclosed). We plan to place all the letters from CP&L in your 10 CFR Part 55 docket file.

In accordance with 10 CFR 55.55(a), the determination by your facility licensee that you no longer need to maintain a license has caused your License No. SOP-21216-1 to expire as of February 13, 2003.

In addition, the following violation is being issued on your docket:

10 CFR 55.53(j) prohibits the use of marijuana and prohibits the licensee from performing activities authorized by a license issued under 10 CFR Part 55 while under the influence of marijuana. "Under the influence" is defined in 10 CFR 55.53(j) to mean that the "licensee exceeded, as evidenced by a confirmed positive test, the lower of the cutoff levels for drugs or alcohol contained in 10 CFR Part 26, Appendix A, of this chapter, or as established by the facility licensee."

Contrary to the above, the licensee violated 10 CFR 55.53(j) as evidenced by the following:

- a. The licensee used marijuana as evidenced by a confirmed positive test for that drug resulting from a urine sample submitted on January 28, 2003.
- b. The licensee performed licensed duties from January 28-31, 2003, following the submission of a urine sample which indicated he was under the influence of marijuana.

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. The use of illegal drugs such that the operator exceeds the cutoff limits specified in 10 CFR Part 26, Appendix A, or in the 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 use of illegal drugs is a significant regulatory concern. Because 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 within 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, US NRC Region II, Sam Nunn Atlanta Federal Center, 61 Forsyth ST SW, STE 24T139, Atlanta Ga, 30303-8931 and marked "Open by Addressee Only."

The purpose of this letter is to make clear to you the consequences of your violation of 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, but also those of 10 CFR 2.201, 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 NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. 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. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Significant Enforcement Actions**.

Mr. David M. Robine

3

Should you have any questions concerning this action, please contact Michael Ernstes of my staff. Mr. Ernstes can be reached at either the address listed above or telephone number 404-562-4638.

Sincerely,

/RA/

Charles A. Casto, Director
Division of Reactor Safety

Enclosures: As Stated

Docket No. 55-7361
License No. SOP-21216

CERTIFIED MAIL NO. 7002 3150 0005 7023 4241
RETURN RECEIPT REQUESTED

cc: w/o encls and w/ HOME ADDRESS DELETED
(HOLD FOR 45 DAYS-EICS ACTION)
Carolina Power and Light Company
Brunswick Steam Electric Plant
ATTN: Mr. J. S. Keenan
Vice President
P.O. Box 10429
Southport, NC 28461

Distribution w/o encls [HOME ADDRESS REMOVED]:

IMMEDIATE DISTRIBUTION:

F. Congel, OE
D. Nelson, OE
B. Smith, OEDO
C. Evans, RII
P. Fredrickson, DRP
H. Christensen, DRS
M. Ernstes, DRS
B. Michael, DRS
A. Hansen, NRR
Part 55 Docket File

RELEASE AFTER 45 DAY HOLD- EICS ACTION

W. Travers, EDO
W. Kane, DEDRP
S. Collins, NRR
W. Borchardt, NRR
L. Chandler, OGC
D. Dambly, OGC
E. Julian, SECY
B. Keeling, OCA
Enforcement Coordinators
RI, RIII, RIV
E. Hayden, OPA
G. Caputo, OI
H. Bell, OIG
L. Dudes, NRR
R. Hannah, RII
K. Clark, RII
PUBLIC
OEMAIL
OE:IA FILE
OEWEB

**THIS ACTION MAY NOT BE RELEASED TO THE PDR OR OUTSIDE THE AGENCY
WITHOUT THE APPROVAL OF OE**

Distribution w/ encls [HOME ADDRESS]

C. Evans, RII

OFFICE	RII:ORA	RII:DRP	RII:DRS	OE	
SIGNATURE	/RA/	/RA/	/RA/	/RA/NHILTON FOR	
NAME	CEVANS	PFREDRICKSON	MERNSTES	FCONGEL	
DATE	05/02/2003	05/02/2003	05/02/2003	05/02/2003	
E-MAIL	YES NO	YES NO	YES NO	YES NO	YES NO

OFFICIAL RECORD COPY

DOCUMENT NAME: C:\ORPCheckout\FileNET\ML031880679.wpd