

December 8, 2008

IA-08-071

Mr. Michael J. Sevey  
[HOME ADDRESS DELETED  
UNDER 10 CFR 2.390]

SUBJECT: NOTICE OF VIOLATION

Dear Mr. Sevey:

The Nuclear Regulatory Commission (NRC) received Event Notification Report 44409 on August 13, 2008, from Dominion Energy Kewaunee, Inc., Kewaunee Power Station, informing us of your confirmed positive test for alcohol during a follow-up fitness-for-duty drug test. We also received a letter, dated September 12, 2008, from Dominion Energy Kewaunee, Inc. in response to an NRC request for information, dated August 15, 2008, containing information about your confirmed positive test for alcohol. On September 25, 2008, we received a letter informing us that Dominion Energy Kewaunee, Inc. no longer had a need to maintain your operating license for the Kewaunee Power Station, effective September 3, 2008. Therefore, on October 7, 2008, the NRC notified you that, in accordance with 10 CFR 55.55(a), the determination by the facility licensee that you no longer need to maintain a license has caused your license (OP-31206-1) to expire. Copies of the aforementioned documents, not previously provided to you, are enclosed and have been placed in your 10 CFR Part 55 docket file.

The NRC determined that a violation of 10 CFR 55.53(j) occurred due to you being under the influence of alcohol while you were on watch in the control room of the Kewaunee Power Station, as demonstrated by a confirmed positive test for alcohol. This violation is cited in the enclosed Notice of Violation. 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 alcohol such that an 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. Therefore, this violation is categorized as a Severity Level III violation in accordance with the NRC Enforcement Policy. Please note that, in accordance with 10 CFR 26.27(b), future similar violations will substantially affect your authorization for unescorted access to the protected area of an NRC licensed facility.

As your NRC license has expired, you are not required to respond to the Notice of Violation 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, NRC Region III, 2443 Warrenville Road, Lisle IL, 60532 and marked "Open by Addressee Only - Response to a Notice of Violation; IA-08-071." However, should you ever 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: (1) carry out the special trust and confidence placed in you as a licensed reactor operator; and (2) abide by all fitness-for-duty and other license requirements and conditions.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," enforcement actions are made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, a copy of this letter and the enclosed Notice of Violation, with your address removed, will be made available to the Public after 45 days unless you provide a sufficient basis to withdraw this violation. The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>). In addition, this letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>. Finally, a copy of this letter will be placed in your 10 CFR Part 55 docket file.

Should you have any questions concerning this action, please contact Mr. Hironori Peterson of my staff. Mr. Peterson can be reached at either the address listed above or 630-829-9707.

Sincerely,

*/RA/*

Steven West, Director  
Division of Reactor Safety, Region III

Docket No. 55-32612  
License No. OP-31206-01

Enclosures:

1. Notice of Violation
2. Kewaunee Event Report 44409
3. Dominion Energy Letter dated  
September 12, 2008
4. Dominion Energy Letter dated  
September 25, 2008
5. NRC Letter dated August 15, 2008

cc w/encl: Mr. David A. Christian  
President and Chief Nuclear Officer  
Dominion Energy Kewaunee

**CERTIFIED MAIL**

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Should you have any questions concerning this action, please contact Mr. Hironori Peterson of my staff. Mr. Peterson can be reached at either the address listed above or 630-829-9707.

Sincerely,  
/RA/

Steven West, Director  
Division of Reactor Safety, Region III

Docket No. 55-32612  
License No. OP-31206-01

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cc w/encl: Mr. David A. Christian  
President and Chief Nuclear Officer  
Dominion Energy Kewaunee

**CERTIFIED MAIL**

FILE NAME: G:\EICS\ENFORCEMENT\Enforcement Cases 2008\IA-08-071 Kewaunee Operator\IA-08-071 letter to operator.doc

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 Publicly Available  Non-Publicly Available  Sensitive  Non-Sensitive (1/26/09)

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NAME	Lougheed		Peterson		Heck		Wray for Carpenter <sup>1</sup>		Barkman <sup>2</sup>		O'Brien		West	
DATE	12/02/08		12/03/08		12/03/08		12/01/08		12/01/08		12/05/08		12/05/08	

**OFFICIAL RECORD COPY**

<sup>1</sup> OE concurrence received via e-mail from G. Gulla on December 1, 2008.

<sup>2</sup> OGC concurrence received via e-mail from G. Gulla on December 1, 2008.

Letter to Michael J. Sevey from Steven West dated December 8, 2008

SUBJECT: NOTICE OF VIOLATION

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## NOTICE OF VIOLATION

Mr. Michael J. Sevey  
[HOME ADDRESS DELETED  
UNDER 10 CFR 2.390(a)]

Docket No. 55-32612  
License No. OP-31206-01  
IA-08-071

As a result of a notification from Dominion Energy Kewaunee Inc., Kewaunee Power Station, on August 13, 2008, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 55.53(j) requires, in part, that a licensed operator shall not perform activities authorized under 10 CFR Part 55 while under the influence of alcohol. The regulation defines "under the influence" as meaning that the licensed operator exceeded, as evidenced by a confirmed positive test, the lower of the cutoff levels for alcohol contained in 10 CFR Part 26, Appendix A, or as established by the facility license.

Contrary to the above, on August 13, 2008, Michael J. Sevey, an individual licensed operator, performed duties authorized by his license while under the influence of alcohol. Specifically, Mr. Sevey assumed the duties of "balance of plant" control room operator, a position authorized by his license. After approximately three hours at the controls of the reactor, Mr. Sevey had a confirmed positive result with a blood alcohol result of 0.052 percent. This value exceeded the 0.04 percent cutoff limit contained in 10 CFR Part 26, Appendix A, Section 2.7 as well as the 0.04 percent cutoff limit established by the licensee.

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

No response to the Notice of Violation is required at this time. However, Michael J. Sevey (former licensee) is hereby provided notice that, should he reapply for an operating license, he will need to satisfy not only the requirements of 10 CFR 55.31, but also those of 10 CFR 2.201 by submitting a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region III, 2443 Warrenville Road, Lisle IL 60532, and marked "Open by Addressee Only." This reply should be clearly marked as a "Reply to a Notice of Violation; IA-08-071" and should include: (1) the reason for the violation, or, if contested, the basis for disputing the violation; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken to avoid further violations; and (4) the date when full compliance was achieved.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the address above and to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because your response, if any, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed

Enclosure 1

copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21. In addition, this letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Dated this 8<sup>th</sup> day of December 2008