

IES UTILITIES INC.

John F. Franz, Jr.
Vice President, Nuclear

May 5, 1994
NG-94-1589

Mr. James Lieberman, Director
Office of Enforcement
U. S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, DC 20555

Subject: Duane Arnold Energy Center
Docket No: 50-331
Op. License No: DPR-49
Reply to Notice of Violation and
Proposed Imposition of Civil Penalty (IR
93-020)
File: A-102

Dear Mr. Lieberman:

A letter from Mr. John B. Martin, U. S. NRC Region III Regional Administrator, to Iowa Electric Light and Power Company, dated April 5, 1994, transmitted a Notice of Violation and Proposed Imposition of Civil Penalty. The letter and NRC regulations require Iowa Electric to reply within thirty days. This letter and the attachments constitute the required reply.

Pursuant to the requirements of 10 CFR 2.201(a), Attachment 1 to this letter, "Reply to a Notice of Violation," provides our (1) admission of the violation, (2) the reasons for the violation, (3) the corrective steps that have been taken and the results achieved, (4) the corrective steps that will be taken to avoid further violations, and (5) the date when full compliance will be achieved.

We acknowledge your concerns about the access authorization program and we recognize the need for increased management attention to this program. The NRC staff's assessment of the cause of this violation is consistent with our own. As discussed during the enforcement conference on November 19, 1993, we have taken actions to correct the security program weakness. We, therefore, will not submit a response pursuant to 10 CFR 2.205 protesting the Civil Penalty. We enclose our check in the amount of \$12,500.00, payable to the Treasurer of the United States.

180096

9405180311 940505
PDR ADOCK 05000331
PDR

Rec'd
check # 077935
for \$12,500.00

JEH

Mr. James Lieberman
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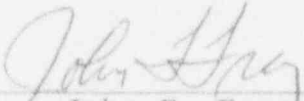
The following new commitment is made in this response:

A computer program to enhance the Access Authorization process will be developed and functional by 12/30/94.

This response, consisting of this letter and attachments, is true and accurate to the best of my knowledge and belief.

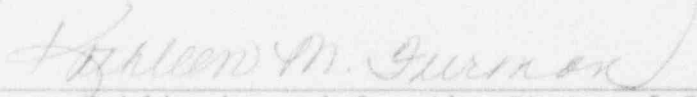
IES Utilities Inc.

By


John F. Franz
Vice President, Nuclear

State of Iowa
(County) of Linn

Signed and sworn to before me on this 5th day of May,
1994, by John F. Franz.


Notary Public in and for the State of Iowa

September 28, 1995
Commission Expires

Attachments: 1) IES Utilities Inc. Reply to Notice of Violation
Transmitted with Inspection Report 93-20
2) Check No. 077935

JFF/DSR/pjv

cc: D. Robinson
L. Liu
L. Root
R. Pulsifer (NRC-NRR)
J. Martin (Region III)
NRC Resident Office
Commitment Control #940221
DCRC

IES Utilities Inc.
Reply to Notice of Violation
Transmitted with Inspection Report 93-20

By letter dated April 5, 1994, the NRC transmitted a "Notice of Violation and Proposed Imposition of Civil Penalty." It identified the following violation and proposed a civil penalty of \$12,500.00.

I. Violation

A. NRC Description of Violation

Section 2.C(5) of Amendment No. 50, effective February 23, 1979, to Facility Operating License No. DPR-49 requires the licensee to maintain in effect and fully implement all provisions of the Commission-approved physical security plan, including amendments and changes made pursuant to the authority of 10 CFR 50.54(p).

Section 6.8.1 of the Duane Arnold Energy Center technical specifications requires that written procedures covering areas listed shall be prepared, implemented, and maintained. Item 8 of section 6.8.1 covers "procedures required by the plant Security Plan."

10 CFR 73.57(b)(1) requires, in part, that the licensee fingerprint each individual who is permitted unescorted access to the facility and review and use the information received from the Federal Bureau of Investigation (FBI) in determining whether to grant or deny unescorted access.

Section 4.6 of Revision 0 of the Access Authorization Manual procedure AAM-8, a security procedure required by item 8 of section 6.8.1 of the Duane Arnold Energy Center technical specifications, provides that if at any time following receipt of information from the FBI and before a determination is made concerning access, the individual's access is terminated, completion of follow-up investigation and review of the information reported may be deferred. The procedure also requires that the individual's file include a note stating that the clearance is "INCOMPLETE" and explaining what follow-up action will be necessary if access is again requested.

Contrary to the above, on July 15, 1993, the licensee granted unescorted access to the protected and vital areas to an individual without first completing a follow-up background investigation. Specifically, although the individual's unescorted access was terminated in 1990 before receipt of derogatory information from the FBI, and his file

was marked to indicate that it would be necessary to evaluate the information before he could be granted unescorted access in the future, the licensee did not evaluate this information before granting unescorted access in 1993 when the individual again applied for unescorted access.

B. IES Utilities Inc. Response

1. Admission of the Violation

IES Utilities Inc. (IESUI) admits an individual was granted unescorted access without first evaluating previously identified derogatory information.

2. Reason for the Violation

On August 13, 1993, in accordance with the plant security program, a Security Access Control Specialist was reviewing FBI criminal history records that had been received late the previous day. Security procedure, "Instructions for Review of FBI Criminal Records," requires that the security personnel review information obtained from the FBI against other relevant access authorization material as part of our program to ensure trustworthiness. When it was determined that the information regarding criminal history provided by an individual in his application for access differed from the FBI records received, the individual's supervisor was contacted immediately to have the individual report to the security specialist for an interview to resolve the discrepancy. Temporary access had been granted to the individual (a laborer employed by a contractor) on July 15, 1993.

The FBI record showed multiple arrests and prison terms, while the individual's application showed no criminal history. During the interview, the individual was questioned about his criminal history and denied having one. The individual's application showed that he had responded "no" to the question, "Have you ever been convicted, pled guilty, received deferred adjudication or had a conviction set aside in a criminal matter (including DUI, or traffic offenses other than non-injury traffic or parking)?" The individual had signed and dated the application which stated, "I certify that all information provided on this application is correct, and I understand that any misstatement, mis-representation or omission may constitute cause for a recommendation of access denial." When confronted with the FBI criminal history record, in the

interview noted above, he admitted that he had willfully falsified his application because he believed that, if IESUI knew of his criminal history, he would not be granted unescorted access and could not work. Specifically, he said, "I had lied in 1990, had lied in 1993, and would lie again." The individual's site access was immediately revoked based on the fact that the individual falsified his application regarding his criminal history. The NRC was notified appropriately.

The DAEC Security Specialist immediately initiated an investigation into the individual's statement that he had lied in 1990 to gain access. It was determined that in June of 1990, we had granted temporary unescorted access to the individual to support a refueling outage. His 1990 application also showed that he denied having a criminal record. The individual's access was terminated September 5, 1990, due to completion of outage activities. The results of the FBI fingerprint check were received on November 2, 1990. The individual had left DAEC and could not be interviewed regarding the results of the FBI check. His personnel case file, as required by access procedural requirements (Section 4.5.2 of "Instructions for Reviewal of FBI Criminal Records"), was marked "incomplete" and filed.

The FBI report showed that, since he became 18, the individual had multiple felony arrests, convictions, and prison terms. However, the most recent charge was in 1978. Management review of the individual's criminal history (after the fact), showed that although past criminal history was lengthy, no criminal activity had occurred in more than ten years. The individual had also met the requirements for alcohol rehabilitation. Under IESUI's standards in determining whether to grant unescorted access, it is probable that the individual could have been granted access if he had revealed his criminal history.

A review showed that in 1990 the individual's case file was noted as "incomplete" because the individual's access had been terminated due to job completion prior to the receipt of his FBI criminal background record. Under those circumstances a personal interview could not be conducted concerning the differences between his application and the FBI record. In addition, the individual's (1990) file was marked to ensure review of the criminal history before access could be granted again. This case file was then placed with other case files of individuals who had received favorable terminations because there was no separate filing system designated for those marked "incomplete". The file remained in this location until August 13, 1993, when we

identified the event and retrieved the file.

Therefore, this violation was caused by a program weakness in which "incomplete" files were grouped with the files of persons who had received favorable terminations. This process resulted in an inadequate review of the records concerning an individual's previous unescorted access, precluding discovery of the falsification of his background information prior to being granted unescorted access.

3. The Corrective Steps That Have Been Taken and The Results Achieved

The access authorization of the individual involved was immediately revoked upon discovery of the falsification of his application, and the situation was reported to NRC. The individual's supervisor reviewed his work record and no concerns were identified. A review of all files identified as "incomplete" was conducted. No additional examples of this problem were identified. "Incomplete" files have now been reclassified so that they are included on the same list as those persons whose access has been denied. The cover sheet of each "Incomplete" file is now stamped "INCOMPLETE - FURTHER REVIEW REQUIRED," to clearly identify the status of the file. The Self Disclosure Questionnaire, which is completed by each applicant for unescorted access, has been modified to ask the individual to state whether or not he/she has previously held access at Duane Arnold. The Security Computer will be utilized to identify, by social security number, those individuals whose files are incomplete. This will prevent them from being issued a security badge without further review.

A Quality Assurance Audit of the Access Authorization Program at DAEC was conducted 12/06/93 - 01/13/94. Several programmatic improvements were implemented as a result of audit recommendations and one audit finding.

4. Corrective Steps That Will Be Taken To Avoid Further Violations

In March 1994, a Self Assessment of the Access Authorization program was conducted by a team of utility and contractor personnel. This report is currently being reviewed by DAEC plant management. Appropriate actions will be assigned upon completion of the review process.

We are currently in the process of developing a computer program to enhance the access authorization process at DAEC. A schedule for implementation of the computer database has

been established. This multistage program will be completed by 12/30/94.

5. Date When Full Compliance Will Be Achieved

DAEC was in compliance on 08/14/93 when the individual's access was terminated.