

UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of
Mr. Eugene Bolton

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IA 95-040

DEMAND FOR INFORMATION

I

Mr. Eugene Bolton was employed as a Senior Nuclear Production Technician at the New York Power Authority (NYPA) Indian Point 3 facility (Licensee). The Licensee holds License No. DPR-64 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50. The license authorizes the operation of Indian Point 3 (facility) in accordance with the conditions specified therein. The facility is located on the Licensee's site in Buchanan, New York.

II

On March 10, 1993, the NRC, Region I, received information from NYPA that Mr. Bolton attempted to substitute a "cold" [bogus] urine sample during random Fitness-for-Duty (FFD) testing, that Mr. Bolton was referred to the Employee Assistance Program, and his authorization for access to the Indian Point 3 facility had been suspended. In response to this information, NRC initiated an investigation of this matter. The investigation has established that:

1. When called for a FFD test on March 9, 1993, Mr. Bolton knowingly submitted a bogus urine sample which he had collected on a previous date and maintained for that purpose.

2. Mr. Bolton admitted that he had provided bogus urine samples in the past when selected for FFD testing in order to avoid detection of the presence of illegal substances.

Based on the above, we have concluded that while Mr. Bolton was an employee of the Licensee, he engaged in deliberate misconduct in violation of 10 CFR 50.5(a)(2), in that he provided to the facility licensee information which he knew to be inaccurate in some respect material to the NRC, specifically, a false [bogus] urine sample, within the context of the Licensee's chemical testing program pursuant to the requirements of 10 CFR Part 26. Mr. Bolton's actions also constitute a violation of 10 CFR 50.5(a)(1) in that he deliberately provided a urine sample that he knew to be inaccurate and which, but for detection, would have caused the Licensee to be in violation of 10 CFR 50.9(a) on March 9, 1993, and, in fact, did cause the Licensee to be in violation of 10 CFR 50.9(a) on earlier occasions. This raises serious doubts as to whether Mr. Bolton can be relied upon to comply with NRC requirements to provide complete and accurate information to the NRC and its licensees. Therefore, further information is needed to determine whether the Commission can have reasonable assurance that in the future he will comply with FFD procedures as required, meet NRC requirements to provide complete and accurate information to the NRC and its licensees, and otherwise conduct activities in accordance with the Commission's requirements.

III

Accordingly, pursuant to sections 161c, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204, in

order for the Commission to determine whether enforcement action should be taken against Mr. Bolton to ensure compliance with NRC regulatory requirements, we request that Mr. Bolton:

- A. Identify whether he currently is employed by any company subject to NRC regulation, and if so, describe in what capacity.
- B. Describe why the NRC should have confidence that Mr. Bolton will meet NRC requirements to provide complete and accurate information to the NRC and its licensees in the future.

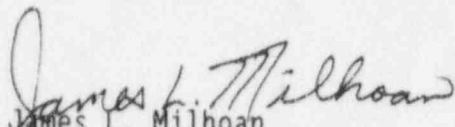
Mr. Bolton may provide any information that he wants the NRC to consider, including whether the statements made in Section II are correct. The information is to be submitted to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, within 30 days of the date of this Demand for Information, in writing and under oath or affirmation.

Mr. Bolton may respond to this Demand for Information by filing a written answer under oath or affirmation or by setting forth his reasons why this Demand for Information should not have been issued if the requested information is not being provided. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address, and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406.

Upon review of the answer, or if no answer is filed, the Commission may institute a proceeding pursuant to 10 CFR 2.202 or take such other actions as may be necessary to ensure compliance with regulatory requirements.

Mr. Bolton's response to the Demand for Information will be considered before a decision is made in this matter. However, if no answer is filed, we will proceed on the basis of available information.

FOR THE NUCLEAR REGULATORY COMMISSION


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

Dated at Rockville, Maryland
this 6th day of October, 1995

October 6, 1995

Mr. Eugene Bolton

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