

UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of
Donald J. McDonald, Jr.

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IA 96-018

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

I

Mr. Donald J. McDonald, Jr., was employed as an Authorized Nuclear In-service Inspector for Factory Mutual Engineering, which is owned by Arkwright Mutual Insurance Company, Inc., a contractor of the Illinois Power Company (Licensee). Licensee is the holder of License No. NPF-62 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50 on April 17, 1987. The license authorizes the operation of Clinton Power Station (facility) in accordance with the conditions specified therein. The facility is located on the Licensee's site in Clinton, Illinois.

II

Mr. McDonald first applied for unescorted access to the Clinton Power Station by completing a background screening questionnaire on March 22, 1994. In response to a question on the questionnaire as to whether he had ever been convicted of a felony or misdemeanor, he listed one driving while under the influence conviction (DWI). However, unescorted access was not pursued further at the time. Mr. McDonald completed a second background screening questionnaire on November 3, 1994, in which he listed no criminal history in

response to the same question. Subsequently, the Licensee submitted fingerprint cards to the Federal Bureau of Investigations (FBI) and was informed that Mr. McDonald had a record of three convictions. Illinois Power Company denied Mr. McDonald unescorted access to the Clinton Power Station. The investigation also determined that Mr. McDonald had falsified his educational record.

The NRC Office of Investigations conducted a transcribed interview of Mr. McDonald on November 30, 1995. When asked by the NRC Investigator about the failure to list the convictions on the background screening questionnaires, Mr. McDonald admitted that he knowingly provided inaccurate and incomplete information.

III

Based on the above, Mr. McDonald engaged in deliberate misconduct on March 22, 1994, and November 3, 1994, in that he deliberately provided incomplete and inaccurate information on two different access authorization applications. The Commission's regulations in 10 CFR 50.5, in part, prohibit any employee of a contractor of a licensee from deliberately submitting to the licensee information that the employee knows to be incomplete or inaccurate in some respect material to the NRC. Information concerning criminal history and educational history is material to the determination the licensee must make in granting or denying unescorted access to its facility pursuant to 10 CFR 73.56(b)(2). Mr. McDonald's actions constituted a violation of 10 CFR 50.5(a).

The NRC must be able to rely on the Licensee, its contractors, and contractor employees to comply with NRC requirements, including the requirement to provide information that is complete and accurate in all material respects. Mr. McDonald's actions in deliberately providing incomplete and inaccurate information to the Licensee constituted deliberate violations of Commission regulations and raised serious doubt as to whether he can be relied upon to comply with NRC requirements and to provide complete and accurate information to the NRC in the future.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. McDonald were permitted at this time to be involved in NRC-licensed activities or were permitted unescorted access to protected or vital areas of NRC-licensed facilities. Therefore, the public health, safety and interest require that Mr. McDonald be prohibited from any involvement in NRC-licensed activities and be prohibited from obtaining unescorted access for a period of three years from the date of this Order and, if Mr. McDonald is currently involved with an employer 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. Additionally, for his first acceptance of an employment offer involving NRC-licensed activities or the assumption of duties in an existing job involving NRC-licensed activities following the three year period of prohibition, Mr. McDonald shall provide notice to the NRC within 20 days of the acceptance of the name, address, and telephone number of the employer or the entity where he is, or

will be, involved in the NRC-licensed activities, and certify that he will comply with NRC regulatory requirements in such employment. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Mr. McDonald's conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 103, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, and 10 CFR 50.5, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

1. (a) Mr. Donald J. McDonald, Jr., is prohibited from engaging in NRC-licensed activities and from obtaining unescorted access to protected and vital areas of facilities licensed by the NRC for a period of three years from the date of this Order. For the purposes of this Order, licensed activities include the activities licensed or regulated by: (1) NRC; (2) an Agreement State, limited to the licensee's conduct of activities within NRC jurisdiction pursuant to 10 CFR 150.20; and (3) an Agreement State where the licensee is involved in the distribution of products that are subject to NRC jurisdiction.
- (b) If Mr. McDonald is currently involved in NRC-licensed activities with an employer, he shall 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.

2. Following the three year period of prohibition, at the time of his first acceptance of an employment offer involving NRC licensed activities as defined in Paragraph IV.1 above, or the first assumption of duties in an existing job that involve licensed activities, Mr. McDonald shall provide notice to the NRC within 20 days of the acceptance or assumption of duties of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. This notice (a) shall be provided to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, and (b) shall certify Mr. McDonald's commitment to compliance with regulatory requirements and provide the basis as to why the Commission should have confidence that Mr. McDonald will now comply with applicable NRC requirements.

The Director, OE, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. McDonald of good cause.

V

In accordance with 10 CFR 2.202, Mr. McDonald 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

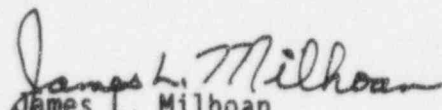
to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to 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. McDonald 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, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, IL 60532-4351, and to Mr. McDonald if the answer or hearing request is by a person other than Mr. McDonald. If a person other than Mr. McDonald 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. McDonald 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. McDonald, or any other person adversely affected by this Order, 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 IV 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 IV 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,
Regional Operations, and Research

Dated at Rockville, Maryland
this 27th day of March 1996

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