

May 9, 1997

EA 97-064

Mr. Lee Liu  
Chairman of the Board  
and Chief Executive Officer  
IES Utilities Incorporated  
200 First Street S. E.  
P. O. Box 351  
Cedar Rapids, IA 52406-0351

SUBJECT: NRC INVESTIGATION REPORT 3-96-002

Dear Mr. Liu:

This letter refers to the investigation conducted by the NRC Office of Investigations (OI) which was completed on January 10, 1997. The investigation concerned whether any personnel from the Duane Arnold Energy Center (DAEC) or your contractor, Berry Industrial Maintenance Company (BIMC), had deliberately failed to follow required Fitness-For-Duty (FFD) procedures during the DAEC Refueling outage (RFO) in 1992. The investigation was also conducted to determine if a former BIMC employee had been discriminated against when his employment contract with BIMC was terminated for raising the FFD issue to his management while he was employed at DAEC during the 1992 RFO.

With respect to the first issue, the investigation concluded that two BIMC contract supervisors deliberately violated the DAEC FFD program procedure during the 1992 RFO by not appropriately responding to information reported to them that another employee may have been impaired by alcohol while onsite. With respect to the discrimination issue, OI concluded that there was insufficient evidence to conclude that the former employee had been discriminated against for raising the FFD issue. A copy of the synopsis of the OI report is enclosed.

After careful review of the OI report and other relevant information, NRC has decided not to take enforcement action. Among the factors considered in reaching this conclusion were the age of the case, the lack of any records documenting that a FFD incident may have occurred during the 1992 RFO, and conflicting evidence. Notwithstanding this conclusion, it is essential that DAEC management ensures that all staff and supervisors, including contractor personnel, are fully trained and cognizant of the DAEC's FFD procedures so that reports of potential FFD problems are promptly and fully addressed in accordance with FFD program requirements.

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No response to this letter is required. In accordance with 10 CFR 2.790 of the Commissions regulations, a copy of this letter and the enclosure will be placed in the NRC Public Document Room.

Sincerely,

(Original signed by A. Bill Beach)

A. Bill Beach  
Regional Administrator

Docket No. 50-331  
License No. DPR-49

Enclosure: Synopsis of OI Report (3-96-002)

cc w/encl: G. Van Middlesworth,  
Plant Manager  
K. E. Peveler, Manager,  
Regulatory Performance  
Chairperson, Iowa Utilities Board

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## SYNOPSIS

This investigation was initiated on January 4, 1996, by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region III (RIII), to determine whether any Berry Industrial Maintenance Company (BIMC) personnel or Duane Arnold Energy Center (DAEC) personnel had deliberately failed to follow required Fitness-For-Duty (FFD) procedures during the DAEC Refueling Outage (RFO) in 1992. The investigation was also to determine if a former BIMC employee had been discriminated against when he was terminated by BIMC from his December 1995 off-site BIMC contract employment for being involved in raising a FFD issue to his management, while he was employed at the DAEC during the 1992 RFO.

Based on the evidence developed during the investigation, it is concluded that two BIMC contract supervisors, had deliberately violated the DAEC FFD Program procedure (No. 1401.6).

Further, based on the evidence developed during the investigation, it is concluded that there is insufficient evidence to substantiate the alleged employment discrimination against the former BIMC contract employee.

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