

UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of
William H. Clark

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IA 98-045

DEMAND FOR INFORMATION

I

William H. Clark was formerly employed by the Centerior Service Corporation (Centerior) as a contract employee who had been granted unescorted access to the Perry Nuclear Power Plant (Perry Plant). Centerior is the holder of Facility Operating License No. NPF-58, issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50 on November 18, 1987. The license authorizes the operation of the Perry Plant in accordance with conditions specified therein. The facility is located in Perry, Ohio.

William H. Clark also was formerly employed by the Power Authority of the State of New York (New York Power Authority) as a contract employee who had been granted unescorted access to the Indian Point Unit 3 Nuclear Power Plant (Indian Point 3 Plant). The New York Power Authority is the holder of Facility Operating License No. DPR-64, issued by the NRC pursuant to 10 CFR Part 50 on April 5, 1976. The license authorizes the operation of the Indian Point 3 Plant in accordance with conditions specified therein. The facility is located in Buchanan, New York.

II

On October 1, 1997, the Nuclear Regulatory Commission (NRC or Commission) received information from Centerior and the New York Power Authority, in accordance with

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10 CFR 73.71(b)(1), that Mr. Clark had been granted unescorted access to the Perry Plant during the period September 11 through September 25, 1997, and the Indian Point 3 Plant during the period May 13 through August 14, 1997, and that Mr. Clark had been previously denied unescorted access to the Philadelphia Electric Company's (PECo) Peach Bottom Nuclear Plant (Peach Bottom Plant) based on a positive test for illegal drug use. On October 30, 1997, the New York Power Authority submitted Licensee Event Report 97-026-00 to the NRC which concluded that Mr. Clark was granted unescorted access to the Indian Point 3 Plant based, in part, on false information that Mr. Clark provided to the New York Power Authority during pre-access screening regarding: (1) a prior positive test for illegal drug use (marijuana), which was administered to him by PECO on September 4, 1996; and (2) a prior denial of unescorted access to PECO's Peach Bottom Plant based on a positive test for illegal drug use. Both Centerior and the New York Power Authority informed the NRC that had the information regarding Mr. Clark's previous positive test for illegal drug use and his denial of unescorted access to the Peach Bottom Plant been known, Mr. Clark would not have been granted unescorted access to their nuclear facilities.

In response to the information reported by Centerior and the New York Power Authority to the NRC, the NRC initiated an investigation of facts and circumstances surrounding the allegedly false information that Mr. Clark provided to Centerior and the New York Power Authority in order to gain unescorted access to the Perry Plant and the Indian Point 3 Plant. The investigation to date has established:

1. On September 4, 1996, Mr. Clark submitted to pre-access drug and alcohol testing in order to gain unescorted access to PECO's Peach Bottom Plant and the immunoassay screen performed by PECO at its on-site lab identified the presence of cannabinoids (marijuana).
2. The specimen Mr. Clark submitted to PECO on September 4, 1996, was tested by "DrugScan" on September 5, 1996, and "DrugScan" reported to PECO that the specimen tested positive for marijuana metabolites.
3. A medical review officer contacted Peach Bottom Plant personnel on two occasions, September 10 and September 16, 1996, and requested that Mr. Clark contact him; Mr. Clark did not contact the medical review officer.
4. On September 19, 1996, a certified letter was sent to Mr. Clark's mailing address, which informed Mr. Clark that the results of his pre-access drug testing had been received, and that if he did not contact the medical review officer within five days of receiving the letter, his pre-access drug test would be declared positive. The return receipt for the letter was signed by Mr. Clark.
5. On October 10, 1996, the medical review officer declared Mr. Clark's pre-access drug test positive based upon a positive drug test report and no contact with Mr. Clark.

6. On April 28, 1997, Mr. Clark applied for unescorted access to the Indian Point 3 Plant and answered "No" to the following two questions in order to gain unescorted access to the Indian Point 3 Plant: (a) have you ever been denied unescorted access to a nuclear power plant or employment due to a fitness for duty policy, and (b) have you ever been denied unescorted access to a nuclear power plant for any reason.

7. Based, in part, on Mr. Clark's answer of "No" to the two questions listed above in item six, Mr. Clark was granted unescorted access to the Indian Point 3 Plant from May 13, 1997, until August 14, 1997.

8. On September 10, 1997, Mr. Clark applied for unescorted access to the Perry Plant and answered "No" to the following two questions in order to gain unescorted access to the Perry Plant: (a) have you at any time in the past five years tested positive for illegal drug use, and (b) have you at any time in the past five years been removed from activities or denied unescorted access at any nuclear power plant, or other employment as a result of a fitness for duty policy.

9. Based, in part, on Mr. Clark's answer of "No" to the two questions listed above in item eight, Mr. Clark was granted unescorted access to the Perry Plant from September 11, 1997, until September 25, 1997.

Based on the above, it appears that Mr. Clark, a former contract employee of both Centerior and the New York Power Authority, has engaged in deliberate misconduct by providing false information to NRC licensees, and it raises serious doubt as to whether Mr. Clark can be relied upon to comply with NRC requirements and to provide complete and accurate information to the NRC's licensees.

Therefore, further information is needed to determine whether the Commission can have reasonable assurance that in the future Mr. Clark will provide complete and accurate information to NRC licensees and otherwise conduct activities in accordance with NRC 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, the Commission needs the following information to determine whether enforcement action should be taken against you to ensure compliance with NRC:

- A. When did you first become aware that you had tested positive for illegal drug use during your pre-access drug screening test at the Peach Bottom Plant? Explain the facts and circumstances regarding your positive test for illegal drug use.
- B. Did you appeal the positive determination regarding your test for illegal drug use? If you did appeal the determination, what was the final result of your appeal? Provide any documents that specifically pertain to the final outcome of your appeal.
- C. Have you been the subject of an assistance plan for treatment of substance abuse since you tested positive for illegal drug use at the Peach Bottom Plant? If so, provide documentation which demonstrates that you successfully completed the assistance plan.

- D. Explain why it appears that you deliberately provided false information to NRC licensees regarding your prior use of illegal drugs, your prior positive test for illegal drug use, and your denial of unescorted access to the Peach Bottom Plant?
- E. Explain why the NRC should have confidence that in the future you can be relied upon to comply with NRC requirements and to provide complete and accurate information to the NRC and its licensees.

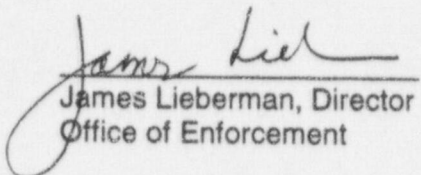
You may provide any other information that you want the NRC to consider, including whether the statements made in Section II are correct. The information is to be submitted to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, within 30 days of the date of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

You may respond to this Demand for Information by (1) filing a written answer under oath or affirmation, (2) setting forth the reasons why this Demand for Information should not have been issued if the requested information is not being provided, or (3) signing and returning the enclosed consent agreement to indicate that you consent to an order which would prohibit your involvement in NRC-licensed activities for a period of five years. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address as above; to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406-1415; and to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, IL 60532-4351.

Upon review of your answer, or if no answer is filed, the NRC may institute a proceeding pursuant to 10 CFR 2.202 or take such other action as may be necessary to ensure compliance with

regulatory requirements. Your 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 Lieberman, Director
Office of Enforcement

Dated at Rockville, Maryland
this 26 day of August 1998

ENCLOSURE 3

IA 98-045

William H. Clark

Subject: Consent Agreement

I, William H. Clark, hereby agree to comply with the commitments described below, and agree to incorporating the commitments into a Confirmatory Order that will be effective upon issuance. I recognize that by signing below, I consent to the issuance of a Confirmatory Order and, by doing so, pursuant to 10 CFR 2.202(a)(3), I will not have a right to request a hearing on all or any part of the Order.

I, William H. Clark, agree to the following commitments:

1. That I will have no involvement in activities licensed by the NRC for a period of five years. NRC-licensed activities are those that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.
2. That for a five-year period after the period above has expired, I will notify the Director, Office of Enforcement, Washington D.C., 20555, within 20 days of the first time I accept employment in NRC-licensed activities, as described above. In the notification, I will include a statement of my commitment to comply with regulatory requirements and address why the NRC should have confidence that I will comply with regulatory requirements, and the name, address and telephone number of my employer or entity where I will be involved in licensed activities.

William H. Clark

Date