



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION III
801 WARRENVILLE ROAD
LISLE, ILLINOIS 60532-4351

January 31, 2000

RECEIVED

EA 99-329

'00 FEB -8 A7:45

Ms. Sharon Charringhausen
Human Resource Manager
Duke Engineering and Services, Inc.
215 Shuman Blvd # 172
Naperville, IL 60563-8458

PUBLIC DOCUMENT

SUBJECT: PREDECISIONAL ENFORCEMENT CONFERENCE
(NRC OFFICE OF INVESTIGATIONS REPORT NO. 3-1998-041)

Dear Ms. Charringhausen:

This is to inform you that a predecisional enforcement conference is to be held to determine the facts and circumstances regarding an apparent violation of NRC requirements prohibiting discrimination against employees who engage in protected activities (i.e., 10 CFR 50.7). The apparent violation involves a Cataract, Inc., employee who was contracted to work for the American Electric Power Company. On October 1, 1998, the engineer reported to work at American Electric Power's Buchanan facility. On October 7, 1998, the engineer's employment was terminated by an acting design manager. The design manager learned that the engineer had been "trouble" at another NRC-regulated facility and had "testified". The acting design manager was a contract employee of Duke Engineering and Services, Inc.

Based on the results of an investigation by the NRC's Office of Investigation, an apparent violation of 10 CFR 50.7 was identified and is being considered for escalated enforcement action in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600. A closed, transcribed predecisional enforcement conference with American Electric Power has been scheduled for 11:00 a.m. (CST), February 24, 2000, at the NRC Region III Office in Lisle, Illinois. Because the Duke Engineering and Services, Inc., employee was acting as a manager for American Electric Power in this manner, it appears that Duke Engineering and Services, Inc., was not directly involved in the apparent violation. After consultation with the Director, NRC Office of Enforcement, the NRC has concluded, absent new information, that Duke Engineering and Services, Inc., will not be cited for a violation of 10 CFR 50.7 and has closed the portion of this enforcement action concerning Duke Engineering and Services, Inc. Nevertheless, Duke Engineering and Services, Inc. is reminded that it is responsible for the actions of its employees, and it is suggested that Duke Engineering and Services, Inc. review the enclosed NRC Policy Statement, "Freedom of Employees in the Nuclear Industry to Raise Safety Concerns Without Fear of Retaliation", dated May 14, 1996 (61 Federal Register 24336).

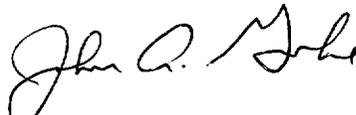
Since the performance of specific individuals will be discussed during the conference, it will be closed to public observation. However, because one of your employees was involved in the apparent violation, Duke Engineering and Services, Inc. will be permitted to participate in the conference, if desired. Cataract, Inc. will also be permitted to attend and participate in the conference. Please inform Ms. Patricia Lougheed of my staff, who can be reached at (630) 829-9760, at least three days prior to the conference as to whether or not you plan to participate.

The NRC's Enforcement Policy permits the employee or former employee who was the subject of the alleged discrimination to participate in the conference. Accordingly, the complainant will be invited to attend the conference. He may participate by observing the conference and if desired, following the presentation by American Electric Power (and any presentation either Duke Engineering and Services, Inc. or Cataract, Inc. choose to make) may make a presentation to address his view on why he believes discrimination occurred and his views on the other presentations. In no case will the NRC staff permit you or the individual to cross-examine or question each other. American Electric Power Company will then be afforded an opportunity to respond. If Duke Engineering and Services, Inc. and Cataract, Inc. participate in the conference, they also will have an opportunity to respond to the NRC on the individual's presentation. The NRC may ask some clarifying questions of any of the participating parties.

The decision to hold an enforcement conference does not mean that the NRC has made a final determination on enforcement action in this case. The conference is being held to obtain any additional information that will enable the NRC to make an informed enforcement decision. In addition, the conference is an opportunity for American Electric Power, Duke Engineering and Services, Inc., and Cataract, Inc. to provide perspectives on: (1) the severity level of the apparent violation; (2) the application of the factors that the NRC considers when it determines the amount of a civil penalty that may be assessed in accordance with Section VI.B.2 of the Enforcement Policy; and (3) any other application of the Enforcement Policy to this case, including the exercise of discretion in accordance with Section VII.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice", a copy of this letter will be placed in the NRC Public Document Room.

Sincerely,



John A. Grobe, Director
Division of Reactor Safety

- Enclosures: 1. NRC ltr to AEP dtd 1/14/00 w/encis
2. 61 Federal Register 24336

cc w/o encls: R. P. Powers, AEP

See Attached Distribution

DOCUMENT NAME: G:\DRS\charringhausen.wpd

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* via Mike Stein / Brent Clayton telephone conversation

S. Charringhausen

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January 31, 2000

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Ms. Patti McGinn
Human Resource Coordinator
Cataract, Inc.
2500 McClellan Blvd # 350
Pennsauken, NJ 08109

PUBLIC DOCUMENT

SUBJECT: PREDECISIONAL ENFORCEMENT CONFERENCE
(NRC OFFICE OF INVESTIGATIONS REPORT NO. 3-1998-041)

Dear Ms. McGinn:

This is to inform you that a predecisional enforcement conference is to be held to determine the facts and circumstances regarding an apparent violation of NRC requirements prohibiting discrimination against employees who engage in protected activities (i.e., 10 CFR 50.7). The apparent violation involves a Cataract, Inc., employee who was contracted to work for the American Electric Power Company. On October 1, 1998, the engineer reported to work at American Electric Power's Buchanan facility. On October 7, 1998, the engineer's employment was terminated by an acting design manager. The design manager learned that the engineer had been "trouble" at another NRC-regulated facility and had "testified". The acting design manager was a contract employee of Duke Engineering and Services, Inc.

Based on the results of an investigation by the NRC's Office of Investigation, an apparent violation of 10 CFR 50.7 was identified and is being considered for escalated enforcement action in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600. A closed, transcribed, predecisional enforcement conference with AEP has been scheduled for 11:00 a.m. (CST), February 24, 2000, at the NRC Region III Office in Lisle, Illinois. Since the performance of specific individuals will be discussed during the conference, it will be closed to public observation. However, because one of your employees was involved in the apparent violation, Cataract, Inc. will be permitted to participate in the conference, if desired. Duke Engineering and Services, Inc. will also be permitted to attend and participate in the conference if desired.

The NRC's Enforcement Policy permits the employee or former employee who was the subject of the alleged discrimination to participate in the conference. Accordingly, the complainant will be invited to attend the conference. He may participate by observing the conference and, if desired, following the presentation by American Electric Power (and any presentation either Cataract, Inc. or Duke Engineering and Services, Inc. choose to make), may make a presentation to address his view on why he believes discrimination occurred and his views on the other presentations. In no case will the NRC staff permit you or the individual to cross-examine or question each other. American Electric Power Company will then be afforded an opportunity to respond. If either Cataract, Inc. or Duke Engineering and Services, Inc. participate in the conference, they will also have an opportunity to respond to the NRC on the individual's presentation. The NRC may ask some clarifying questions of any of the participating parties.

The decision to hold an enforcement conference does not mean that the NRC has made a final determination on enforcement action in this case. The conference is being held to obtain any additional information that will enable the NRC to make an informed enforcement decision. In addition, the conference is an opportunity for American Electric Power, Cataract, Inc. and Duke Engineering and Services, Inc. to provide perspectives on: (1) the severity level of the apparent violation; (2) the application of the factors that the NRC considers when it determines the amount of a civil penalty that may be assessed in accordance with Section VI.B.2 of the Enforcement Policy; and (3) any other application of the Enforcement Policy to this case, including the exercise of discretion in accordance with Section VII.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice", a copy of this letter will be placed in the NRC Public Document Room.

Please inform Ms. Patricia Lougheed of my staff, who can be reached at (630) 829-9760, at least three days prior to the conference as to whether or not you plan to participate.

Sincerely,

John A. Grobe, Director
Division of Reactor Safety

Enclosure: NRC ltr to AEP dtd 1/14/00 w/encls

cc w/o encl: R. Powers, American Electric
Power Company

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* via Mike Stein/Brent Clayton telephone discussion