



### RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

1999-0098

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RESPONSE TYPE

FINAL

PARTIAL

DATE

MAY 22 2001

REQUESTER

Mr. Paul Choiniere

#### PART I. -- INFORMATION RELEASED

No additional agency records subject to the request have been located.

Requested records are available through another public distribution program. See Comments section.

APPENDICES Agency records subject to the request that are identified in the listed appendices are already available for public inspection and copying at the NRC Public Document Room.

APPENDICES Agency records subject to the request that are identified in the listed appendices are being made available for public inspection and copying at the NRC Public Document Room.

Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, NW, Washington, DC.

APPENDICES A Agency records subject to the request are enclosed.

Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.

We are continuing to process your request.

See Comments.

#### PART I.A -- FEES

AMOUNT \*

\$

You will be billed by NRC for the amount listed.

None. Minimum fee threshold not met.

You will receive a refund for the amount listed.

Fees waived.

\* See comments for details

#### PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

No agency records subject to the request have been located.

Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.

This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

#### PART I.C COMMENTS (Use attached Comments continuation page if required)

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Carol Ann Reed

**RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST**

1999-0098

MAY 22 2000

**PART II.A -- APPLICABLE EXEMPTIONS**

APPENDICES

Records subject to the request that are described in the enclosed Appendices are being withheld in their entirety or in part under the Exemption No.(s) of the PA and/or the FOIA as indicated below (5 U.S.C. 552a and/or 5 U.S.C. 552(b)).

Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.

Exemption 2: The withheld information relates solely to the internal personnel rules and procedures of NRC.

Exemption 3: The withheld information is specifically exempted from public disclosure by statute indicated.

Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).

Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).

41 U.S.C., Section 253(b), subsection (m)(1), prohibits the disclosure of contractor proposals in the possession and control of an executive agency to any person under section 552 of Title 5, U.S.C. (the FOIA), except when incorporated into the contract between the agency and the submitter of the proposal.

Exemption 4: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.

The information is considered to be confidential business (proprietary) information.

The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.790(d)(1).

The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.790(d)(2).

Exemption 5: The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Applicable privileges:

Deliberative process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.

Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation)

Attorney-client privilege. (Confidential communications between an attorney and his/her client)

Exemption 6: The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.

Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.

(A) Disclosure could reasonably be expected to interfere with an enforcement proceeding (e.g., it would reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators).

(C) Disclosure would constitute an unwarranted invasion of personal privacy.

(D) The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.

(E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.

(F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.

OTHER (Specify)

**PART II.B -- DENYING OFFICIALS**

Pursuant to 10 CFR 9.25(g), 9.25(h), and/or 9.65(b) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The person responsible for the denial are those officials identified below as denying officials and the FOIA/PA Officer for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECY	IG
Guy Caputo	Director, Office of Investigations	Appendix A	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appeal must be made in writing within 30 days of receipt of this response. Appeals should be mailed to the FOIA/Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, for action by the appropriate appellate official(s). You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

**APPENDIX A  
RECORDS BEING WITHHELD IN PART**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u></b>
1.	09/30/96	OI Report of Investigation, #1-96-002 (54 pages) <b>EX. 7C</b>
2.	11/21/96	OI Report of Investigation, #1-96-007 (42 pages) <b>EX. 7C</b>
3.	05/18/98	OI Report of Investigation, #1-97-007 (41 pages) <b>EX. 7C</b>

Title: MILLSTONE UNIT 1:

ALLEGED DISCRIMINATION AGAINST A SENIOR ENGINEER FOR RAISING CONCERNS REGARDING THE OPERATION OF THE CU-29 VALVE

Licensee:

Northeast Nuclear Energy Company  
P.O. Box 270  
Hartford, Connecticut 06141

Docket No.: 50-245

Reported By:



Keith G. Logan, Special Agent  
Office of Investigations  
Field Office, Region I

Case Number: 1-96-002

Report Date: September 30, 1996

Control Office: OI:RI

Status: CLOSED

Reviewed By:

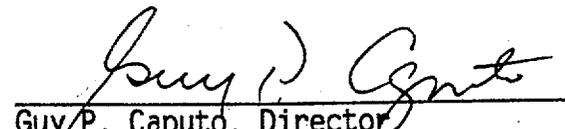


Barry R. Letts, Director  
Office of Investigations  
Field Office, Region I

Approved By:

Information in this record was deleted  
in accordance with the Freedom of Information  
Act, exemptions 7c

FOIA- 99-098



Guy P. Caputo, Director  
Office of Investigations

**WARNING**

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## SYNOPSIS

On January 24, 1996, the NRC, Office of Investigations (OI), Region I (RI), initiated this investigation to determine whether Northeast Utilities (NU) discriminated against a Senior Engineer and former engineering supervisor for his involvement in protected activities.

Based upon the evidence developed during this investigation, OI concludes that NU discriminated against the employee for being involved in protected activities. This investigation further determined that a second senior engineer was also discriminated against by NU. Specifically, OI finds that, due, at least, in part, to their involvement in protected activities, both employees were not reassigned to supervisory positions in 1993 pursuant to an engineering re-integration at NU.

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ORGANIZATION CHART

[SEE EXHIBITS 3 & 4]

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## LIST OF ACRONYMS

ACR	Adverse Condition Report
ANSI	American National Standards Institute
CIV	Containment Isolation Valves
CY	Connecticut Yankee
EC	Erosion Corrosion
FCAT	Fundamental Cause Assessment Team
GRPI	Goals, Roles, Process and Interpersonal
ISAP	Integrated Safety Assessment Program
IST	In-Service Test Program
ILRT	Integrated Leak Rate Testing
LLRT	Local Leak Rate Testing
MECAT	Millstone Employee Concerns Assessment Team Report
MOV	Motor Operated Valve
NRC	Nuclear Regulatory Commission
NSCP	Nuclear Safety Concerns Program
NU	Northeast Utilities
OD	Operability Determination
OI	Office of Investigations
OIG	Office of Inspector General
PIR	Plant Incident Report/Plant Information Report
PORC	Plant Operations Review Committee
RCP	Reactor Coolant Pump
REF	Reportability Evaluation Form
RI	Region I
SER	Safety Evaluation Report
SSC	System Structure and Components
SSH	Significant Safety Hazard
TBSCCW	Turbine Building Secondary Closed Cooling Water
USQ	Unresolved Safety Question

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LIST OF INTERVIEWEES

EXHIBIT

AUSTIN, Peter, Manager, assigned to Design Engineering  
(former Manager, System Engineering), NU . . . . . 25

BLASIOLI, Paul, Reactor Operator Trainee (former Manager, Unit 1  
Technical Support), NU . . . . . 35

BONACA, Mario, Director, Nuclear Safety & Analysis (former  
Director, Nuclear Engineering Services), NU . . . . . 8 & 43

CHATFIELD, Larry, Director, Nuclear Safety Concerns,  
NU . . . . . 32, 33, 87, 88, & 92-96

DEBARBA, Eric, Vice president, Nuclear Engineering Services, NU . . . 28 & 45

ECKENROTH, Lorraine, Instructor, Marketing Learning Department, NU . . . . 7

HAYNES, Harry, Director, Nuclear Training Services (former Director,  
Nuclear Unit, Millstone Unit 1), NU . . . . . 10

KACICH, Richard, Director, Operational Standards (former Director,  
Nuclear Planning, Licensing and Budgeting), NU . . . . . 86

KUPINSKI, Matthew, Manager, Nuclear Engineering Support Services  
(former Manager, Mechanical & Civil Engineering), NU . . . . . 12 & 30

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MODONO, Sam, Vice president & General Manager, Hay Management Consultants, Hay Group . . . . .	14
NECCI, Ray, Director, Nuclear Engineering, Millstone Unit 2, NU . . . . .	15
OPEKA, John, former Executive Vice president & Chief Nuclear Officer, NU . . . . .	18
PITMAN, George, Director, Nuclear Engineering, Millstone Unit 2, NU . . . . .	19
RISLEY, H.P. "Bud," former Director, Nuclear Engineering, Millstone Unit 1, NU (currently on assignment to INPO) . . . . .	26
SCACE, Steve, Vice president, Nuclear Operations Services, NU . . . . .	21
SILKO, Thomas, Senior Engineer, Millstone Unit 1, (former Licensing Engineer), NU . . . . .	44
WILSON, Michael, Operations Manager, Millstone Unit 2, (former Supervisor, Nuclear Licensing), NU . . . . .	27

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## DETAILS OF INVESTIGATION

### Applicable Regulations

10 CFR 50.5: Deliberate Misconduct  
10 CFR 50.7: Employee Protection

### Purpose of Investigation

On January 24, 1996, the NRC, Office of Investigations (OI), Region I (RI), initiated this investigation to determine whether Northeast Utilities (NU) discriminated against [redacted] for his involvement in protected activities (Exhibit 1).

### Background

In a memorandum dated November 8, 1993, from John OPEKA, former executive vice-president and chief nuclear officer (retired), NU announced the results of its reorganization (engineering re-integration) (Exhibit 29). This effort restructured the nuclear engineering staff, located in Berlin, CT, at the corporate offices, and placed most of that staff at the Millstone Nuclear Power Station. The memorandum contained a listing of new positions, new supervisors and new managers. There were fewer supervisory and management positions under the new organization. One vice-president was released from NU and others were shifted to new positions; other managers were reassigned within the new organization. Some supervisors were promoted, others were demoted to their prior positions, or simply reassigned within the new organization.

There were also senior engineers and principal engineers who received promotions to supervisory positions. [redacted] was one of several supervisors in the old organization who had received good performance evaluations over the years and was still de-selected from a supervisory position.

The selection of vice-presidents, directors, and managers was accomplished by OPEKA with the assistance of evaluators from the Hay Group (Hay). Hay provided a team of management consultants who administered a series of tests and collated the reviews of incumbent managers, based upon a 360 degree evaluation review process. For example, this review meant that a director would be critiqued by his supervisor, peers and subordinates and the information provided to the Hay Group. The coordinator from Hay was Sam MODOONO. Lorraine ECKENROTH, a program manager with NU in 1992, was assigned to work with the Hay Group in developing competencies which were needed in the areas of development, training and nuclear management, to enhance the overall managerial performance of the nuclear group. ECKENROTH noted that in this effort to make the nuclear group better, Hay interviewed everyone from OPEKA down to all the directors (Exhibit 7, pp. 8-10).

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In January 1993, Hay started their competency assessment of the vice presidents and directors; this was followed by the baseline assessments in February. By May or June, ECKENROTH indicated that the assessments were done. She coordinated the feedback sessions with the participants. After this was over, she started the same process with the seventy-plus managers. ECKENROTH noted that, at the time, this evaluation process did not include supervisors (Exhibit 7, pp. 13-18, 38-49). ECKENROTH stated she was invited to the selection meetings to show the participants how to use the data in making their decisions and "to make sure the data was used reliably and correctly" (Exhibit 7, pp. 21 and 53).

On August 7, 1995, [redacted] having been re-assigned as a [redacted] at NU, indicated in a letter (Exhibit 81) to OI that his demotion from supervisor to [redacted] was "tied to challenging (NU) management's directives, which compromise safety at Millstone." As of that date, [redacted] did not want the NRC to pursue his allegation of discrimination against him by NU and he had not filed a complaint with the Department of Labor. [redacted] was interviewed several times by OI in

### Interview of Allegor

[redacted] was interviewed by OI on January 24, 1996 (Exhibit 2), at which time he decided to make a formal allegation that he had been retaliated against for his involvement in protected activities. During the course of the OI interview, OI confirmed with [redacted] that he believed that, as a result of his involvement with 1-CU-29,

[redacted] he was not selected for retention in a supervisory position at NU in 1993 (Exhibit 2, pp. 24, 27, 36-38, 48-49, 55-56, and 62-64). OI conducted a second interview of [redacted] on June 12, 1996 (Exhibit 42).

[redacted] started working for NU in [redacted] and was promoted to a [redacted] Incident to

[redacted] at the time" (Exhibit 2, p. 6). In [redacted] indicated there was a major reorganization wherein the [redacted] was transferred to the plant from corporate in Berlin, CT. He maintained responsibility for his

In the [redacted] time frame, [redacted] indicated that [redacted] was heavily involved with the [redacted] as with other elements of the organization, they were also responsible for making [redacted] related to [redacted] issues involving the plant. During that time, [redacted] was assigned an [redacted] and in the process of doing that he identified

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management and supported [redacted] brought this to the attention of his (Exhibit 2, p. 8).

[redacted] stated that he found himself in "some sticky situation with respect to unpopular positions" (Exhibit 2, p. 9). [redacted] in that he was "taking some [redacted]" noted that in the [redacted]

(Exhibit 2, p. 10).

In November 1993, [redacted] was informed by Mario BONACA, Director, Nuclear Engineering, that he was no longer a supervisor and that he would be looking for a job within NU. As [redacted] recalled, BONACA told him that it was not clear where he [redacted] would be fitting in and that he was not privy to why [redacted] was no longer a supervisor. [redacted] remembered being told that this reassignment was "not" performance based (Exhibit 2, pp. 11 and 12; see also Exhibit 43, pp. 37-39).

[redacted] also spoke with Eric DEBARBA, Vice-president, Nuclear Engineering Services, who assured him that performance was not an issue with his de-selection. DEBARBA told him "that based on the new organization, there were other individuals who were better equipped to fill those slots." [redacted] was surprised that some of those new supervisory positions were filled with first time supervisors, like [redacted] and others. [redacted] recalled that DEBARBA went on to tell [redacted] that his "experience was relatively narrow in comparison to other individuals who were at the other end of the spectrum, i.e., more broad" (Exhibit 2, pp. 14 and 15). [redacted] indicated that another former supervisor, [redacted] was told by DEBARBA that "his experience was actually too broad in nature but he had no specific or detailed experience in any one area" (Exhibit 2, p. 21). [redacted] soon found himself working for [redacted] which had similar responsibilities to his [redacted] (Exhibit 2, pp. 15 and 16; see also Exhibit 20).

[redacted] also cited [redacted] as another example of the de-selection process. According to [redacted] had responsibility for the [redacted] and had taken an unpopular position concerning [redacted]

[redacted] noted that while NU management wanted people to make the hard and tough decisions, they did not want supervisors who opted to take unpopular positions. [redacted] indicated that, consistent with the prevailing view, he "was not labeled as a team player." He did not believe that management could count on him "to comply with all requests . . . without hesitation or without questioning." From time to time, he felt "that it was appropriate to disagree and explain the basis for such disagreements," which he did (Exhibit 2, p. 24).

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In 1992-1993, [redacted] indicated that [redacted] was assigned several tasks by his manager, [redacted] one of which was the 1-CU-29 issue. Although they had limited knowledge as to its condition, the decision at that point was that NU would not spend money to test the valve. He felt that it was highly unlikely that the valve was in an acceptable condition (leak tightness) after 22 years of operation. The expected life of the valve is really an unknown and it needed to be tested or inspected (Exhibit 2, p. 26). Also during that period, NU was using the [redacted] to prioritize projects to come in compliance with [redacted] at Millstone Unit 1 (Exhibit 2, p. 27).

[redacted] two operability determinations in January 1993, which supported plant operation and acknowledged the 1-CU-29 schedule (Exhibit 47, pp. 16-31). [redacted] indicated that he [redacted] the operability determination in 1993 because he was "being practical" in nature in that clearly direction from our upper management was that we needed to keep the plants running, needed to be careful on how we spent money, such that in the future, very near future, . . . [NU] could be competitive in the marketplace." [redacted] felt that if they "were able to present information which would allow the plant to run until . . . the next refuel or shortly thereafter," they would "ultimately address these problems." He felt that since the problem had existed for a long period of time, "it was acceptable to run the plant in the short term, but ultimately to fix these things . . . in the reasonably short term. Consequently [they]...put together two cases. And with the intent that our management could ultimately pick what they felt was correct. That is, if they wanted to shut the plant down immediately, they would have a basis" (Exhibit 42, pp. 9-11).

[redacted] indicated that "Case 1 looked at overall primary containment addressing all penetrations and CIVs . . . Case 2 specifically looked at the verbiage contained in the operating license. And in particular, tech specs which only considered CIVs which were currently testable." In [redacted] mind, the OD, "although not perfect or ideal, met the objectives of keeping the plant on line and protecting the public" (Exhibit 42, pp. 11 and 12). [redacted] admitted that "to some degree . . . (they) were passing the buck" when they presented two case studies. If NU management had looked at the OD and wanted to "execute conservative decisionmaking, they could have selected Case 1 which said . . . (they) were inoperable and shut down immediately." [redacted] believed that this was an important enough issue to warrant the attention and interest of upper management (Exhibit 42, p. 13; see also Exhibit 36).

AGENT'S NOTE: SILKO acknowledged that preparing an REF with a Case 1/Case 2 approach was unusual, but that it was not unusual to analyze a problem from several perspectives (Exhibit 44, pp. 6-9).

In a meeting, on or about [redacted]

[redacted] noted that in the operability determination (Exhibit 47, pp. 16-23; see also Exhibits 31, 34, and 36) they reviewed the conclusion noted that the "license, as written was deficient." Although he believed Millstone was required to be in compliance with [redacted] the license only required that those valves which were

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testable be tested. In addition, through the process, NRC had already approved work on CU-29 for RFO-15.

AGENT'S NOTE: On April 28, 1988, NU had requested an exemption relating to Type C testing requirements of Section III.C, with respect to certain containment penetrations (see Exhibit 5).

To the issue was clear, if NU did not look at all they were missing the whole objective of...

According to at the meeting, "licensing had some reservations with some particular verbiage concerning stated deficiencies with the operating license." recalled that felt that certain things were left unsaid (Exhibit 42, pp. 13 and 14). It was position that they needed to take the statement relating to "deficiencies in the MP1 license" (Exhibit 42, p. 8) out of the operability determination (OD) dated January 13, 1993. At that time, agreed, as a concession to gain acceptance and get it out to the plant. This decision was accepted by licensing, as was a participant at the meeting. There were also other changes that were made, including the reversal of "Case 1" and "Case 2" in the OD (Exhibit 42, pp. 13 and 14).

AGENT'S NOTE: In his OI interview, recalled very little concerning any discussions he may have had regarding and he did not recall that there were two versions of the in January 1993 (Exhibit 36, pp. 13-18).

The OD was later questioned by Harry HAYNES (Director, Millstone Unit 1) after he reviewed some information about the legal aspects of the license, which was provided by Winston & Strawn (Exhibit 47, pp. 32-42; see also Exhibit 27, pp. 31-35); HAYNES noted in his to that "primary containment remains operable" and then asked for a re-evaluation of the REF (Exhibit 47, p. 53). group reviewed the legal information and determined "that it had no bearing on a technical evaluation for operability" (Exhibit 2, pp. 30 and 31). The discussions which followed were at the management level on 1-CU-29 and were mainly between AUSTIN, who kept going to for information, and BLASIOLI (Manager, Unit 1 Technical Support). told AUSTIN, in the summer of 1993, that he was not willing to go along with closing out he did not agree with SILKO's conclusion "that there were no operability problems and primary containment was operable, and there was no issue" (Exhibit 2, pp. 33 and 34, Exhibit 47, pp. 58-60).

In November 1993, noted that he was reorganized out of a job and, thereafter, in the Spring of 1994, or earlier, the plant determined that "all the valves were operable and primary containment was operable" (Exhibit 2, pp. 34 and 35). When he lost his supervisory position and was in a new job, he decided not to pursue the 1-CU-29 issue any further. said that he gave them his input and it was not well received; so for him, it was time to back off. He believed that it was clearly not in his best interest to pursue this and a certain amount of apathy set in for him (Exhibit 2, pp. 37 and 38).

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Another point ( ) noted was the visibility of one of his ( ) had

[REDACTED] an effort to resolve this problem (see also OI Case No. 1-94-021).

The licensing organization and his supervision ( ) were aware of the problem identified by ( ) and the support ( ) gave to its resolution. ( ) indicated that AUSTIN told him that ( ) was making a big deal out of something little, inferring that he ( ) had better things to work on (Exhibit 2, pp. 56-58).

( ) noted that in ( ) from time to time. HAYNES and KACICH (Director, Nuclear Licensing). During these meetings, ( ) also brought up ( ) became (Exhibit 42, pp. 30, 31, and 33). ( ) and others wrote several memoranda regarding the ( ) DeBARBA and others were aware of ( ) concerns at the same time people were making decisions on personnel selections for the new engineering organization (Exhibits 42, pp. 48-59). ( ) became very unhappy with the way things were going on the ( ) and made everyone aware of it;

(Exhibit 42, pp. 30, 36, and 37). ( ) also noted in a confidential memorandum to DEBARBA, dated ( ) that ( ) "has the fortitude to contact the NRC unless reasonable complete satisfaction is acquired. Furthermore, ( ) expressed his desire to take definitive action, possibly with the NRC ( ) feel compelled to convey this to you directly to preclude any regrets . . . I . . . support the recommendation made by ( )" (Exhibit 42, pp. 35-39 and Exhibit 53).

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Interview of

During the course of this investigation, OI became aware of another individual who believes he was discriminated against as a result of the 1993 engineering reintegration. On May 8, 1996, and July 17, 1996, [redacted] was interviewed by OI.

He indicated that he was promoted from [redacted] to his first supervisory position in about [redacted] and [redacted] at the time of the engineering reintegration of 1993, he was the [redacted] and [redacted] was responsible for providing engineering support in that area. [redacted] involved with: [redacted]

After the reorganization, he returned to the [redacted] (Exhibit 6, p. 3; see also Exhibits 39 and 72).

He recalled being advised by RISLEY, about fifteen minutes before a public announcement was made, that he had been de-selected as a supervisor. He remarked that RISLEY, "with a smile on his face," told him: "Sorry, [redacted] you have been de-selected as a supervisor. But don't worry, we'll try to find you a job somewhere within the company." [redacted] had been hoping for a promotion and believed he had done "fantastic work in [redacted]." He went on to speak with [redacted] and he was not given any reasonable answers as to why he was no longer a supervisor (Exhibit 6, pp. 41 and 42; Exhibit 72, pp. 11-14, 17-19, and 21-23; see also Exhibit 26, pp. 108 and 109). [redacted] recalled that KUPINSKI told him that he (KUPINSKI) did not have any role in the selection process and BONACA indicated that he (BONACA) did not have any input in his selection or de-selection, and that the selection process became a "popularity contest" (Exhibit 6, p. 42).

[redacted] indicated that he had received good evaluations. The one exception was in his [redacted] evaluation (Exhibit 39), where he received an "NI," or "needs improvement" in the area of "monitoring and controlling work progress." [redacted] explained that this was due to the inordinate amount of work assigned to his group and not his failure to complete the assignments. After completion of an assignment, supervisors were supposed to write a memorandum to their boss or secretary who was tracking the task. [redacted] admitted that he fell behind in the clerical task of writing the memoranda, but not in performing the work. [redacted] further indicated that he was [redacted] and was responsible for about half of the commitment projects (Exhibit 72; pp. 4-8; see also Exhibit 73).

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recalled the MOV reliability program in and it was behind schedule and not properly funded. He noted that NU was behind on its commitment to the NRC and there was a definite shortage of money and resources to implement the program properly. He discovered that there were a lot of safety related and reliability technical issues that needed to be resolved. He noted that he kept relating his concerns to KUPINSKI and they kept delaying things and playing games (Exhibit 6, pp. 8-10). stated that engaged in delaying tactics, stalling tactics, and would not respond to had written (Exhibit 72, p. 15). He documented some of his concerns in a memorandum and several days later the MOV program was believes that all the unit directors were aware of his concern. He also indicated that he had several meetings and wrote a letter to with a copy to DEBARBA, on the MOV program, in addition to other issues in 1993 (Exhibit 6, p. 10 and see also Exhibits 46, and 65-72).

also indicated that as early as 1991, and prior to the reorganization, he was actively involved with issues related to the TBSCCW heat exchanger: this matter was assigned to Fred MARTSEN in his group. According to this issue ended up being reassigned to AUSTIN's group because did not like the answers he was giving to problems with the program. There were several memoranda written by and others, disagreeing on how things should be handled (Exhibit 6, pp. 7-9, and Exhibits 60, 62, 63, and 64).

recalled that in October 1993, as a result of one memorandum, RISLEY had a discussion with KUPINSKI about According to both and KUPINSKI, it was in that conversation that RISLEY said to KUPINSKI: "I can make you or break you." recalled discussing the matter with KUPINSKI and believing that RISLEY was referring to both KUPINSKI (Exhibit 6, pp. 13-21; Exhibit 26, pp. 117-119; Exhibit 30, pp. 13-17; and Exhibit 72, pp. 8-10).

AGENT'S NOTE: RISLEY denies making the statement to KUPINSKI.

Another matter that (along with ) was involved with in the involved the reactor coolant pumps (RCPs) at Unit Someone found that There was the "usual pressure from the plant to do -- ask as little as you can and . . . [he] was trying to be prudent . . . [T]here was tremendous pressure . . . both from and Millstone and our management. because of commercial implications . . . stated that got involved and tried to convince them "not to do anything." told that the

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to determine the root cause and what was causing the pumps to fail. Shortly thereafter, KUPINSKI wrote a memorandum on the same subject advising Joe VARGAS at Seabrook about the problems with the RCPs (Exhibit 6, pp. 25-29; see also Exhibits 75-78).

stated that he filed discrimination complaints with NU's NSCP (CHATFIELD) and the State of Connecticut. At the same time, he was still trying to get more information on his de-selection. In at a meeting with Cheryl GRISE (Senior Vice-president & Chief Administrative Officer), she told him that DEBARBA still held him in high regard, but felt that he did not have "much practical experience." did not put much stock in that statement and told her that he spends "half of his life at the plant" (Exhibit 6, pp. 48-50).

attributes much of these problems to whom he credited with "bringing a culture of mistrust" to the department. He also felt that "did whatever he could to delay resolution of the issues;" he would limit contacts with the units and admonish him for setting meetings without prior approval (Exhibit 6, pp. 53-56). believes that discussions with other directors, including RISLEY and DEBARBA, resulted in him being "blackballed." He believes that DEBARBA, RISLEY, are responsible for his not being retained in a supervisory position pursuant to the 1993 reorganization (Exhibit 6 pp. 64-66; see also Exhibits 9 and 26).

#### Coordination with Regional Staff

Several allegation panel meetings were held with the RI staff, and the staff was apprised of the initial findings of this investigation. Copies of the allegor's OI interviews, with attachments, have been forwarded to the RI staff (David VITO) to ensure that all of technical issues are addressed.

Allegation: NU Discriminated Against Concerns

For Raising Safety

#### Summary

The following individuals were interviewed by OI:RI on the dates indicated regarding the allegation that was discriminated against for raising safety concerns.

<u>Name</u>	<u>Position</u>	<u>Date of Interviews</u>
		May 2, 1996
		May 29, 1996

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		May 2, 1996
Paul BLASIOLI	Reactor Operator Trainee, (former Manager, Unit 1 Technical Support), NU	May 30, 1996
Mario BONACA	Director, Nuclear Safety & Analysis (former Director, Nuclear Engineering Services), NU	June 26 & August 7, 1996
Larry CHATFIELD	Director, Nuclear Safety Concerns, NU	March 20, April 9, & May 29, 1996
		May 8 & July 17, 1996
		January 24 & June 12, 1996
Eric DEBARBA	Vice president, Nuclear Engineering Services, NU	July 18, 1996
Lorraine ECKENROTH	Instructor, Marketing Learning Department, NU	April 16, 1996
		May 15, 1996
Harry HAYNES	Director, Nuclear Training Services (former Director, Nuclear Unit, Millstone Unit 1), NU	May 15, 1996
Richard KACICH	Director, Operational Standards (former Director, Nuclear Planning, Licensing and Budgeting), NU	March 25, 1996
Matthew KUPINSKI	Manager, Nuclear Engineering Support Services (former Manager, Mechanical & Civil Engineering), NU	December 12, 1995 & June 12, 1996
		May 29, 1996

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		7	May 30, 1996
Sam MODOONO	Vice President & General Manager, Hay Management Consultants, Hay Group		May 3, 1996
			April 17, 1996
Ray NECCI	Director, Nuclear Engineering, Millstone Unit 2, NU		May 14, 1996
			May 2, 1996
John OPEKA	former Executive Vice president & Chief Nuclear Officer, NU		May 14, 1996
			April 17, 1996
George PITMAN	Director, Nuclear Engineering, Millstone Unit 2, NU		May 15, 1996
			December 12, 1995 March 18, 1996
			June 13, 1996
H.P. "Bud" RISLEY	former Director, Nuclear Engineering, Millstone Unit 1, NU (currently on assignment to INPO)		June 2, 1996
Steve SCACE	Vice president, Nuclear Operations Services, NU		May 15, 1996
Thomas SILKO	Senior Engineer, Unit 1, (former Licensing Engineer), NU		July 17, 1996
			May 2, 1996
			May 2, 1996

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Documents Reviewed

OI met with NU Human Resources personnel and reviewed personnel file. OI received and reviewed copies of performance ratings for and ratings for Performance rating documents are included as attachments to this report (Exhibits 39 and 40).

OI also reviewed records from the Nuclear Safety Concerns Program and numerous notes/records retained, and/or prepared, by witnesses who were interviewed in the course of this investigation.

Documents were provided to OI by several individuals, including and NU, through its attorneys (Morgan, Lewis & Bockius). NU, through its attorneys, has requested the withholding of documents from public disclosure, pursuant to 10 CFR Section 2.790; the attorneys also noted that many of the documents contain personal information, the disclosure of which would be an unwarranted invasion of personal privacy.

Performance Ratings

A review of Performance Management Program ratings for the period indicated overall ratings of "Q" (quality). In CIZEK received 13 "E" (Exceptional) ratings and 13 "Q" ratings. In it was 10 "E" and 11 "Q"; a year later, it was 7 "E" and 12 "Q" ratings (Exhibit 25, p. 78; and Exhibit 40).

The narrative portions of these ratings indicate high level performance, as reflected below:

Performance Management Rating



Performance Management Rating

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Performance Management Rating (1/18/94)

Performance Ratings

A review of Performance Management Program ratings for the period indicated overall ratings of "Q" (quality). In received 8 "E" (Exceptional) ratings and 19 "Q" ratings. In it was 8 "E" and 20 "Q" and, a year later, it was 6 "E" and 19 "Q" ratings, with 1 "NI" (Needs Improvement) (Exhibit 39). In received 7 "E" ratings, 5 "Q+" ratings and 16 "Q" ratings. One recurring criticism of is listed as a need "to improve in work monitoring and control and commitment follow."

The narrative portions of these ratings indicate quality performance as a leader and in the area of teamwork, as reflected below:

Performance Management Rating (2/5/91)

Performance Management Rating (2/20/92)

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*out over  
10*

Performance Management Rating (2/12/93)

Performance Management Rating (3/2/94)

Evidence Summary

The issue of whether [redacted] were the victims of discrimination in for having been involved in protected activities centers around their involvement in several areas.

Protected Activities by

was involved in: (1) 1-CU-29; [redacted] in

the

As various witnesses indicate, each of these points raised visibility at different points, with different levels of NU management (Exhibit 42, pp. 35-39; see also Exhibit 26, pp. 122-130; Exhibit 33, p. 5; and Exhibit 53).

AUSTIN has been

describes AUSTIN

work as excellent and, about [redacted] in one of NU's "higher technical groups . . . that dealt with heat transfer, turbine generator cycles, efficiencies," etc. AUSTIN in the 1991 reorganization, into the System Engineering Branch. AUSTIN indicated that the work they did matched "capabilities quite well." AUSTIN described [redacted] as a "strong and excellent" who liked to dig into details, but wanted to do things right" (Exhibit 25, pp. 11 and 12).

AUSTIN acknowledged that some of the more visible projects that [redacted] was associated with were:

1. 1-CU-29: Since the [redacted] was requested to "verify information being put into the design basis document packages." CU-29 came out of a "requested review of the Millstone

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position was the criteria (Exhibit 25, p. 25). Which would be the (Exhibit 25, pp. 13 and 14). would probably not meet the

2. (Exhibit 25, pp. 15-19).

3. Problems with the (Note: Austin indicated that this was a highly visible issue at the level because of "safety and economic value and operation of the plant.") (Exhibit 25, pp. 68-70).

4.

5.

6.

DEBARBA recalled endorsing the memorandum to OPEKA, but did not recall having made any other endorsements. DEBARBA also recalled that was involved in the (Exhibit 28, pp. 63-69). DEBARBA indicated that he thought OPEKA was pleased at having the (Exhibit 28, p. 76).

AUSTIN noted that work on the but AUSTIN never "grabbed on" to that system (Exhibit 25, p. 67). After considering all the issues that was involved in at Millstone through AUSTIN stated that he could not see as being discriminated against. AUSTIN does not think that "bucked management," but does not know if NU's Directors or Vice President would agree (Exhibit 25, p. 79). However, AUSTIN indicated that there were a litany of issues involving (Exhibit 25, pp. 80 and 81). AUSTIN indicated that his personal management style is one of actually wanting someone who challenges his decisions" or thought processes; he did not know if everybody shared that opinion (Exhibit 25, p. 81).

During the processing of in 1992 and 1993, HAYNES was the Unit 1 Director, RISLEY was the Project Services Director (and ISAP Coordinator), and Les DAVIDSON was the Design Manager for Unit 1. AUSTIN said he probably had discussions with each of the individuals about 1-CU-29. WILSON recalled that it was Unit 1 management that asked licensing to provide their perspective on some of the licensing and legal issues raised in the OD. After discussions with KACICH, WILSON indicated that he requested Winston & Strawn's legal

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assessment of the licensing issues raised by the OD; in addition, Winston & Strawn was very familiar with the ( ) and Dave REPKA, Esq., was involved in the original creation of it (Exhibit 27, pp. 30-36; see also Exhibit 10).

Both RISLEY and HAYNES were involved in the supervisory selection process in the 1993 engineering re-integration. AUSTIN indicated that he also knew that BLASIOLI and ( ) were involved with the CU-29 issues (Exhibit 25, pp. 58 and 59; see also Exhibits 35 and 36). WILSON stated that he briefed KACICH on these issues. WILSON indicated that he believed KACICH would have been involved with the ( ) on a regular basis, but "at higher levels, maybe talking with other directors or other managers about ongoing issues," such as this; the other directors would have included ( ) (Exhibit 27, p. 43).

SILKO was critical of ( ) and the ( ) because he saw Case 1/Case 2 as the result of not being "able to come to a conclusion as to what applies and what doesn't." Had a solid conclusion been reached regarding the operability of the valves, the ( ) would not have been drawn out for as long as it was (Exhibit 44, pp. 8-11). However, SILKO acknowledged that ( ) was clearly "not an easy issue to resolve" and that it "had greater visibility than several others." SILKO compared its visibility as similar to that of ( ), regarding the ( ) (Exhibit 44, pp. 19 and 21; see also Exhibit 27, pp. 37-40).

( ) also worked on ( ) did not associate 1-CU-29 with ( ) and did not perceive ( ) as playing a large role in 1993. ( ) stated that he did not get upset when ( ) was not retained as a supervisor, and he did not see ( ) as a "go-getter" (Exhibit 34, p. 20).

WILSON stated that he had discussions with ( ) regarding the ( ) which ( ) raised. WILSON did not recall if he had any discussions with ( ) on the same issue, and he is unsure of whether he was aware that ( ) at the time (Exhibit 27, pp. 45-48).

#### Protected Activities of

Prior to the engineering reintegration, ( ) were responsible for:

(Exhibit 6, p. 3; see also Exhibit 26, pp. 114-118, 120, and 121; and Exhibits 64-72 and 74-78).

KUPINSKI indicated that he assigned ( ) to "the heat exchanger issue at Millstone 1 where operational failures necessitated technical support to the

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corporate group."

quickly concluded that "

RUPINSKI noted "that there was a resistance on the part of the plant staff he interfaced with to acknowledge his point that observed by plant personnel were attributable

questioned during a meeting at which AUSTIN was also present. KUPINSKI saw challenging some of with expertise as an indication of where engineering was headed. Some time later, this incident was followed by RISLEY's comment that he could "make" or "break" KUPINSKI. KUPINSKI believed that RISLEY was telling him that he could influence KUPINSKI's employment, as well as his position. This was shortly before the engineering reintegration selections were announced. KUPINSKI thought that this was "an attempt by RISLEY to intimidate" him, to keep him from writing a letter or documenting similar concerns that had arisen with regard to the TBSCCW heat exchangers (Exhibit 30, pp. 9-15; see also Exhibit 6, pp. 11-13; Exhibit 26, pp. 117-119; and Exhibit 72, pp. 8-10).

BONACA recalls stopping at RISLEY's office shortly before the reorganization. RISLEY and were discussing KUPINSKI and the letter prepared by which was sent to Unit 1. RISLEY was very upset that KUPINSKI had let the letter go to the Unit. RISLEY's feelings were "very intense;" he was "hot." BONACA described RISLEY as having "extremely strong feelings about teamwork." As a result of the letter, BONACA believes that RISLEY had very strong feelings about KUPINSKI and (Exhibit 8).

RISLEY, on the other-hand, denies having a "heated conversation" with KUPINSKI and he also denies telling KUPINSKI that he could make or break him (Exhibit 26, pp. 118 and 119). However, in July 1995, CHATFIELD recalls DEBARBA telling him that RISLEY's "autocratic style was a hinderance" and was "at the bottom under his control from an engineering standpoint" (Exhibit 87, pp. 284 and 285).

In a March 7, 1994, memorandum to KACICH, noted that the originators of (concerning the excessive flow through the TBSCCW heat exchanger) were "left with the impression that these were not viewed as being necessary and could result in the need for plant modifications which were not considered necessary by the plant staff" (Exhibit 84, p. 3).

In a June 6, 1995, draft memorandum to BONACA, KUPINSKI documented his concerns regarding the resolution of the 1-CU-29 issue (Exhibit 47, pp. 107-109). KUPINSKI did this at the request of BONACA, who wanted to know why resolution of the matter took as long as it did. Although KUPINSKI noted in his interview that he did not have any direct involvement in the 1-CU-29 issue prior to April 1995, he talked with other individuals, including about the history of 1-CU-29. KUPINSKI was quick to note that the "issue

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existed since 1992/1993. Prior opportunities existed for effective resolution but were missed . . . . A cursory review of the reportability/operability assessments conducted in 1992/1993 confirms total reliance on regulatory/legalistic type of arguments in lieu of the real safety issues . . . . This is a cultural issue which continues to be exhibited by the organization . . . . We continue to treat a person or group that brings forth a concern in a negatively reenforces fashion as exhibited in the early stages of this issue . . . . The issue resolution was not conducted in an open and honest fashion. There was a reluctant acceptance of this issue by both management and subordinates at MP-1. A chilling environment existed; personnel . . . [were] reluctant and afraid" (Exhibit 47, pp. 117-119).

While KUPINSKI qualified the "chilling" period as being 1995, he did determine that [redacted] was chilled prior to that (see also Exhibits 83, 84, and 90). KUPINSKI noted that he raised concerns on other issues with management and there was resistance within the organization, which could be perceived as potentially chilling. When asked if he thought there was a hostile work environment which existed during the resolution of the 1-CU-29 issues, KUPINSKI felt that it was simply a different work environment that existed prior to 1991 (Exhibit 30, pp. 23 and 24 and Exhibit 47, pp. 107-109). KUPINSKI did note that for the first time he was getting negative feedback on his performance evaluation in 1994. He recalled that BONACA told him that there was some reluctance coming from RISLEY, PITMAN and others, which KUPINSKI thought had a direct correlation with the fact that he took a different stand on technical matters than they had taken (Exhibit 30, p. 26). KUPINSKI concluded with a statement that there is a "chilling environment at NU today" (Exhibit 30, p. 28; Exhibit 45, pp. 4-6; and Exhibit 47, pp. 117-119).

KUPINSKI wrote a confidential memorandum to DEBARBA, dated [redacted] advising him of problems with how NU handled problems. In his writing, KUPINSKI noted that they "have not managed the component aging and degradation issues as well as one should." KUPINSKI wrote: "I have seen a dramatic downturn in corporate sensitivity to issues subsequent to the reorganization in 1991 primarily because of lack of knowledge, lack of organizational focus, substantial depletion of resources of the [redacted] and complete aversion by the new management to face the realities of real plant problems which will impact NU's nuclear performance." While KUPINSKI supported a new engineering organization in 1993, he closed his memorandum telling DEBARBA that he was "concerned about the future direction of the [redacted] and its ultimate impact on company performance (Exhibit 85, pp. 26-32).

AUSTIN stated that the Unit 1 TBSCCW system heat exchanger issue was a visible issue that [redacted] was involved in. As he recalled, he did not agree with [redacted] point of view with regard to the [redacted]. He also recalled that [redacted] was involved with an issue relating to the [redacted] (Exhibit 25, pp. 88-90, 92, and 93). AUSTIN also indicated that there were other supervisors who were handling highly visible issues and not

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selected for supervisory positions in the new organization, such as (Generic Letter No. 89-13; service water systems regarding plant operation, valve settings, heat exchanger capabilities, maintenance practices, limits of heat exchangers, tubing and operations) and (HVAC, Appendix R, and fire protection) (Exhibit 25, pp. 93-97; see also Exhibit 28, pp. 40-42).

AUSTIN recalled that the MOV program was reassigned to him because it became "bogged down a little bit." There were some issues regarding plans and funding requests, and [redacted] asked him [redacted] it had previously been assigned to [redacted] AUSTIN assigned the project to [redacted] AUSTIN felt that his engineering background, personal skill, and organization drive were the reasons that the MOV project was (Exhibit 25, pp. 82-86).

In a [redacted] on the QSD Audit (#A30212) to DEBARBA, [redacted] about the MOV program. He indicated that [redacted]

[redacted] in a memorandum to [redacted] criticized [redacted] with copies to [redacted]

SILKO recalled that [redacted] "was receiving . . . some flack" because of his involvement in the TBSCCW heat exchanger matter, but SILKO did not know from whom or from where (Exhibit 44, pp. 31 and 32).

### 1993 Engineering Reintegration

The "engineering reintegration" of 1993 was designed to improve the operation of NU's nuclear facilities. The selection of vice-presidents, directors, managers and supervisors was announced publicly with the issuance of OPEKA's memorandum on November 8, 1993 (Exhibit 29). The selection process which was followed for the appointment of vice-presidents, directors and managers involved an array of considerations, including a 360 degree evaluation of candidates currently at that level, administered by the Hay Group (Exhibit 14, p. 37). Some of the records of the evaluation process were retained by the Hay Group and were made available for review by OI.

KACICH recalled that in his conversations with OPEKA, he understood that OPEKA was the personal architect of much of the 1993 reorganization (engineering re-integration); OPEKA was the one who decided what process was going to be used. KACICH noted that he had discussions with OPEKA and DEBARBA prior to the announcement of the new staff selections. KACICH said he became cognizant of the fact that one of the steps contemplated was that if they "didn't believe that (they) . . . had the right people in the right positions

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(they) . . . were going to do something about that." KACICH determined that was "not someone who belongs as a supervisor." KACICH indicated that this change was "performance driven with respect to his performance." At the end of 1993, ended up working as a in DEBARBA's organization instead of licensing. (Exhibit 86, pp. 26-30).

In an October 31, 1995, letter (Exhibit 89) addressing the resolution of a safety concern regarding 1-CU-29, CHATFIELD identified a decision process at NU which showed "a pattern where the site engineering organization looked very myopically at determinations involving operability." CHATFIELD stated that "they weren't looking closely enough at operability determinations from a yea/nea standpoint. They were tainting them toward keeping the plant operable." When CHATFIELD talked with "DEBARBA about that, he [DEBARBA] noted that that was part of the reason that a reorganization was made November, 1993." CHATFIELD also stated that "DEBARBA indicated that there had been an inherent conflict between [the] engineering division and the drive to complete operation, and that is what he saw as one of the major thrusts in reorganizing the engineering department . . ." (Exhibit 88, pp. 21 and 22; Exhibit 89, p. 3).

AGENT'S NOTE: Although DEBARBA notes that these problems were a major thrust of the 1993 reorganization, BONACA told CHATFIELD in February 1994 that they are operationally conceited to myopically looking at keeping the plant operating and that sometimes sound engineering was out of balance (Exhibit 92, p. 18).

The selection process generally followed for supervisory positions was less formal or structured, and very few records were created and retained (Exhibits 7, 18, 28, 41, 79, and 80). This left few documents to review and provide an understanding of the process. The most available resource was the memory and testimony of each witness. The supervisory selection process was without any checks to prevent discrimination against employees who raised safety concerns. It was simply a closed door session in which management led the way, with OPEKA, DeBARBA, and the other vice-presidents placing individuals in various supervisory positions (see Exhibits 15, 18, 19, 21, 28, 43, 45, 79, and 80).

#### The Selection Process

The decision to restructure NU nuclear activities had been ongoing and is separate from involvement in most of these activities. OPEKA said that based upon self assessments that were done in 1990-1991, NU determined that they had some significant problems that needed to be addressed. They came up with a Performance Enhancement Program (PEP) and committed to hire 450 people; but, they did not have time to integrate the engineering and maintenance functions (Exhibit 18, pp. 6-8). In developing the new organization, OPEKA believes that NECCI may have used the services of Towers-Perrin (Exhibit 15, pp. 6-14; Exhibit 18, p. 89; and Exhibit 21, pp. 6 and 7). After the new structure was created, they were aware that a number of

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positions would be eliminated because of the duplication which existed. The decision was made, in August 1993, to place all engineering functions under one vice president, DeBARBA. They used competency evaluations to help select the new officers, directors and managers for the new organization (Exhibit 18, pp. 8-10; Exhibit 45, p. 59, 62-74; and Exhibit 21, pp. 10-25; see also Exhibit 7).

OPEKA stated that he was the person who made the final decision on who would fill a particular position, but he relied heavily on the people that reported to him. "[H]e did not know a lot of the people that were being selected at the supervisory ranks and relied heavily on his officers, but probably most heavily on the director of unit engineering" for people in the new organization. The directors told him that they had a lot of non-supervisory people that probably had better skills than some of the existing supervisors and should be considered for the reorganization (Exhibit 18, p. 29).

NECCI recalled that the unit directors had a lot to say about who had the qualities that they were looking for in the new organization's supervisors. NECCI stated that DEBARBA had discussions with the unit directors about certain people. Although NECCI did not recall any rankings which were placed on paper, he did say that DEBARBA, RISLEY, and PITMAN knew the people and were a good check to see if they were customer focused, etc. (Exhibit 15, pp. 32-34). NECCI stated that there was "a general discussion about people to fill positions" and they "supported each other with discussions of people's backgrounds and questions" about where people were in the organization. He relied on DEBARBA and the other engineering directors in staffing his organization (Exhibit 15, pp. 28-30; see also Exhibit 21).

AGENT'S NOTE: NECCI proffered that at one of the selection meetings, they spoke about how existing supervisors ranked. He recalled that both did not rank very highly; these were two people he knew and did not think that they were very customer focused (Exhibit 15, pp. 30 and 31).

SCACE, like DEBARBA, OPEKA, NECCI, and PITMAN, talked about the process used for the screening and selection of supervisors. SCACE indicated that after slotting some names into the new organization, they determined that they would need additional information on others to finish the process. While SCACE recalled that the group looked at incumbent supervisors, he acknowledged that they also looked at senior engineers and "other high performing senior level people." SCACE did not recall any discussion regarding the following individuals:

He attributed this to his lack of contact with them. When it came to making the selection, there were some that he knew better than others, but DEBARBA "knew them all fairly well" (Exhibit 21, pp. 28-34).

NU did not use the same level of screening for the supervisory positions as it did for managers, directors and vice-presidents. The Hay Group interviewed non-supervisory personnel who were being considered for appointment to supervisory positions. The candidates were ranked and placed into quartile

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groups with ratings from 51.56 (lowest) to 100 (highest). One of the selectees was (Exhibit 17) who was ranked in the [redacted] with a score of [redacted] and another was (Exhibit 13) who had (Exhibit 79; see also Exhibit 7, pp. 38-47; Exhibit 26, pp. 53 and 54; and Exhibits 11, 13, 16, 17, 20, 22, 23, and 24).

Another individual, [redacted] who was a [redacted] at the time, was not screened by the Hay Group, but was promoted to a supervisory position. [redacted] stated that he learned of his promotion (Exhibit 29) as they were handing out the flyers (Exhibit 29) with the new organization; someone nudged him and said, "Congratulations." His former supervisor, [redacted] had been [redacted] had been an acting supervisor in [redacted] for about ten months in [redacted] after [redacted] was selected, over [redacted] to permanently replace [redacted] was transferred from a supervisory position in [redacted] acknowledged that [redacted] would also have been a good selection for the new Nuclear Mechanical Engineering Support supervisory position, because [redacted] had both the technical and people skills which were necessary. [redacted] noted that two other technically qualified individuals for the new supervisory position were [redacted] (Exhibit 20, pp. 24-32, 36, and 37).

Current supervisors in 1993 did not receive any screening by the Hay Group (Exhibit 7, p. 40; Exhibit 28, pp. 6 and 7; and Exhibit 79, pp. 1 and 2). During the selection process, current performance evaluations on the incumbent supervisors were not readily available (Exhibit 28, pp. 69 and 70). DEBARBA recalled that at their first meeting on the selection of supervisors, they identified a number of people they thought were high potential candidates to fill positions, but they wanted "some additional information before selections were made," which is why they went to the Hay Group (Exhibit 28, pp. 32 and 33).

OPEKA noted that he generally accepted incumbents, where the same position existed in the new organization, unless there was an issue of performance (Exhibit 18, pp. 29-31). DEBARBA stated that "everyone was on an equal footing" and they selected the people they felt were "the best candidates for those positions regardless of where they were previously." DEBARBA indicated that they did not do any analysis of each candidate and compare one against the other; they simply asked, "who is a good selectee for that particular position" (Exhibit 28, pp. 53 and 54).

OPEKA stated that he had never considered, or discussed, whether someone had raised a safety concern in his decision to select an individual for a position in the new organization. He did note that had people been laid off or out placed that might have been an issue for discussion (Exhibit 18, pp. 51 and 52).

PITMAN, NECCI, RISLEY, ECKENROTH, MODOONO, SCACE, and DeBARBA also indicated that issues relating to the raising of safety concerns were not

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discussed at the various OPEKA selection meetings. None of these individuals could recall discussing [redacted] as a potential supervisory candidate and only NECCI recalled discussing [redacted] (Exhibits 9, 19, 26, 7, 14, 21, 26, and 28; Exhibit 15, pp. 34 and 35; and Exhibit 45, p. 61).

AGENT'S NOTE: In response to an inquiry regarding the location of papers and/or documents used in the engineering integration selection process, OPEKA indicated that none of the working papers, concerning the selection of supervisors and management personnel, were retained by him. This was so he could ensure the confidentiality of the selection process (Exhibit 18, p. 84).

DEBARBA noted that the new organization was a "much flatter organization . . . with fewer positions . . . and . . . with a different focus." He recalled BONACA having a lot to say relative to what the new organizational alignment would be. He also recalled discussions with BONACA about the manager positions under him (fuels, safety analysis, radiological assessment, etc), specifically KUPINSKI, Al CRETELLA, and John GUERCI. But, DEBARBA did not recall any specific conversations regarding the supervisory positions and who would fill them (Exhibit 28, pp. 24, 27-30, 72, and 73).

BONACA did not recall attending any meetings at which the selection of all the supervisors was discussed. However, he did discuss with DeBARBA the filling of one supervisory position. He recalled that DeBARBA was reassigning [redacted] from [redacted] without his consultation, and that [redacted] was being promoted to a [redacted] position. The latter move created a vacancy in [redacted] BONACA recalled a discussion with DeBARBA regarding the possibility of promoting [redacted] to the position; both of them were [redacted] in the [redacted] Those were the only two names that he knew were sent to the assessment center. While he favored [redacted] he agreed that [redacted] who was more outgoing and had received a higher rating from the assessment group, should receive the promotion. This was the only supervisory appointment (non-manager) DEBARBA discussed with him. BONACA does not know why he was not a participant at the meeting when the supervisory selections were made (Exhibit 8 and Exhibit 28, pp. 72 and 73).

But, DEBARBA stated that there was a fairly lively discussion as to who might be a good candidate for a particular position. He indicated that people spoke up when they knew a person and their skills. He described the supervisory selection process as "collegial . . . where there were inputs gained from a number of people (Exhibit 28, pp. 31 and 32). DEBARBA acknowledged that they looked for who could work with each other, team players with predictable performance. DEBARBA went on to describe [redacted] as people who did not take "strong positions against management" and "soft spoken people . . . , not threatening" (Exhibit 28, pp. 57 and 58).

DEBARBA described the selection process as follows:

I think that typically there would be a discussion on the merits of the person that's being proposed. And there may be some

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discussion that ensued. And if somebody had a question about somebody, that question was pursued. Somebody might -- I can't remember any specific instances -- but there may have been someone's name proposed and somebody said, "Oh, gee, you know, I've worked with that person," or, "That person worked for me at one point in time, and I've observed this."

You know, "How has his performance been lately? Are you still observing that characteristic? I've got this question in my mind," or, "Yes, you got that person, but what about this person? Did you consider that person because I think that person would be a good candidate, too, for that job." So it was with those kind of discussions that ultimately led to a consensus relative to, "Okay, we've got that person or persons as candidates -- any questions? Yes, there's some questions" -- questions get answered. Either a change is made or it's left. That's the way it went (Exhibit 28, pp. 59 and 60).

HAYNES indicated that he became aware of the issues raised by [redacted] regarding [redacted]. He was also aware of [redacted] was working on. HAYNES did not recall discussing these issues outside of his Unit 1 organization. While HAYNES indicated that he was generally aware of 1-CU-29, he did not have any specific recollection of it and its ultimate resolution prior to his departure as the unit director (Exhibit 10, pp. 13-21; see also Exhibit 47, pp. 32-42 and 53-60).

PITMAN indicated that he was part of the task group that worked with Towers-Perrin and NECCI on the redesign team, developing the new structure for the organization which would eventually be staffed in November 1993. PITMAN stated that he was brought on late in the design process and "worked mainly on roles and responsibilities for system engineers for design engineers and the like" (Exhibit 19, pp. 7 and 8; see also Exhibits 15, 18, and 21).

PITMAN discussed the selection process whereby he picked some managers and some were already in place. He even recalls RISLEY saying that he would like FERGUSON in Unit 1 with him. PITMAN noted that he did not know PARULIS (Paul) who had worked in another unit, but has been assigned to him in Unit 3 without discussion, his name was already on the chart. He was also told that he would have to tell [redacted] that he was no longer in an [redacted] position, as he had been for the past three months. PITMAN thought that [redacted] performance was not good in [redacted]. Based upon PITMAN's "small amount of exposure on motor operated valves" (Exhibit 19, pp. 7-20).

PITMAN felt that [redacted] did not have the leadership skills necessary for a management decision. PITMAN stated that [redacted] was "a very talented engineer" and that it "was a disfavor to him when they made him (a) supervisor." PITMAN believes that [redacted] may have already been placed in one of the supervisory positions when he (PITMAN) attended this meeting. PITMAN

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indicated that like [redacted] was a good technical person who was not a good supervisor. He recalled that [redacted] name may have been mentioned for a supervisory position and that he was very familiar with [redacted] "inability to get something finished. PITMAN noted that [redacted] always got "wrapped up in peripherals as opposed to the issue that was of interest" (Exhibit 19, pp. 20-22).

[redacted] indicated that, as the [redacted] he did not feel that he was perceived well by the unit directors. It was

[redacted] He believed that his background was different than that of his subordinates and his performance was acceptable to below acceptable (Exhibit 9, pp. 11-18). [redacted] noted that in 1993 there were a lot of things occurring and "a lot of them were in MOVs." He recalled that there were issues relating to the need for more resources and falling behind schedule. In [redacted], the MOV project was with [redacted] recalled that another major program he had, which was assigned to [redacted]

[redacted] noted that [redacted] had "a couple of the big hitters" assigned to him. When [redacted] went down to the units to work on [redacted] became more complicated because there was no manager, no supervisor, "and a bunch of draft documentation." After reviewing a series of documents and letters, [redacted] determined that the work could be done at NU and [redacted] AUSTIN (Exhibit 9, pp. 18-27).

[redacted] recalled that in the [redacted] time frame, [redacted] was involved in the decision of [redacted] It was not until [redacted] that he became aware of the fact that [redacted] whose issues he was generally aware of in 1993. [redacted] noted that there were about [redacted] in his department at the time (Exhibit 9, pp. 32-38 and 43-45).

#### Nonselection of

While [redacted] questioned DeBARBA, BONACA, and others about his nonselection as a supervisor, he did not file a complaint with the Department of Labor or the NRC. However, [redacted] was also de-selected and did file a complaint with the State of Connecticut and the NU Nuclear Safety Concerns Program Office. When [redacted] received an appointment with [redacted] he decided not to proceed with his state complaint (Exhibit 6, p. 53). CHATFIELD, the NSCP Director, completed an internal investigation based on [redacted] complaint against NU. CHATFIELD concluded that "there was actually no indication whatsoever that [redacted] had been discriminated against during the supervisory selection process because of [redacted] (his) position on sensitive engineering issues" (Exhibit 41, p. 8). However, in CHATFIELD's notes of a conversation with [redacted] CHATFIELD indicated that "the organization certainly could have been capable" of retaliation (Exhibit 95, pp. 116 and 117). [redacted] disagreed with CHATFIELD's findings and still considers this matter as an open issue (Exhibit 6, p. 51).

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OPEKA indicated that the decision to retain supervisors like MAWSON and BRIGGS and not retain \_\_\_\_\_ and others was based on the decisions of DeBARBA and his organization (Exhibit 18, p. 44). DEBARBA said he knew all the people selected (Exhibit 28, p. 32). DEBARBA indicated to CHATFIELD, during the NSCP investigation, that he believed \_\_\_\_\_ was "considered amongst many others; however, his name doesn't stand out . . . . We operated on a belief that he was qualified but decided that others would be more successful" (Exhibit 28, p. 38 and Exhibit 41). While DEBARBA indicated that he never viewed \_\_\_\_\_ positions as "unpopular," he indicated that "the subject never came up during the selection process." But, DEBARBA specifically recalled \_\_\_\_\_ involvement in TBSCCW when he had an occasion to be briefed or asked the question (Exhibit 28, pp. 39, 41, and 42; see also Exhibit 26, pp. 116-119).

DEBARBA indicated that a reason for not selecting \_\_\_\_\_ was that he was "looking for the best available candidate to fill a new position that was predominately site-based and less specialized, i.e., mechanical/civil engineering, not balance of plant engineering or engineering mechanics." DEBARBA described \_\_\_\_\_ as "highly specialized, analytical and corporate focused." "The committee was looking for candidates using the assessment criteria who provided a new business focus as a compliment to technical skills . . . in this regard was no different than \_\_\_\_\_" (Exhibit 28, p. 40).

BONACA was not present during the selection process for supervisors (Exhibits 8 and 43) and OPEKA relied heavily on DEBARBA and the unit directors to make the selections for that organization (Exhibit 18, p. 46). However, DEBARBA stated he would be surprised if the supervisory selections "made their way to paper" without BONACA knowing about them (Exhibit 28, p. 33). OPEKA stated that he did not know \_\_\_\_\_ (Exhibit 18, p. 76). When BONACA asked DeBARBA why \_\_\_\_\_ was not retained as a supervisor, he was told that "was not good at closing issues" (Exhibit 8, p. 1).

\_\_\_\_\_ stated that BONACA told him that he (BONACA) believes that input from the plant directors had a direct consequence to \_\_\_\_\_ and him in \_\_\_\_\_ since BONACA had been given no explanation why they were no longer supervisors; BONACA now understands the plant reaction to unpopular decisions regarding operability (Exhibit 42, pp. 80).

\_\_\_\_\_ recalled that NECCI was \_\_\_\_\_ before \_\_\_\_\_ became a supervisor ((Exhibit 6, p. 32). NECCI described DEBARBA, RISLEY, and PITMAN as discussing who "would be good for this position because he's got these skills and so and so wouldn't be as good because . . ." (Exhibit 15, p. 35). NECCI was the only one who recalled that \_\_\_\_\_ name was mentioned at a meeting regarding the selection of supervisors. NECCI did not recall anything in particular that was critical of \_\_\_\_\_ but, he did recall that DEBARBA indicated that \_\_\_\_\_ did not show "customer type focus" (Exhibit 15, p. 35; see also Exhibit 7, p. 63). DEBARBA did not recall either \_\_\_\_\_ names being mentioned during the selection process (Exhibit 28, pp. 58, 70, and 71).

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*Pitman*  
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RISLEY stated that he did not consider [redacted] for appointment to a supervisory position within his organization in 1993 because he thought that others had strengths that [redacted] did not have, such as "interpersonal skills and follow-through and things of that nature." Until November of 1993, RISLEY indicated that he really did not know [redacted] other than saying hello to him in the hallway. RISLEY did not recall any discussion about either [redacted] during the supervisory selection process. RISLEY did not consider [redacted] for any supervisory positions because he had heard that [redacted] had trouble with "interpersonal skills" and "difficulty in making decisions." In describing the selection process, RISLEY indicated that "it was more analyze the producers to fill those jobs with people that could best serve the organization and those that were left over would [just] be reassigned;" it was a "selection process rather than a de-selection process" (Exhibit 26, pp. 45-52). [redacted] indicated that [redacted] was the only nonselected supervisor that he was concerned about (Exhibit 34, p. 20).

BLASIOLI stated that he was a little surprised when [redacted] was not selected for a supervisory position in the new organization. He recalls preparing a list of possible people to work in the Unit 1 Project Services Department (PSD) for SCACE, who was the Station Superintendent prior to the 1993 reorganization. [redacted] name was on the list of BLASIOLI's choices to fill a [redacted] position (Exhibit 35, pp. 83, 89, 90, and 91). [redacted] did not share the same feelings about [redacted] BLASIOLI was not surprised [redacted] name was not on the list of supervisors in the new organization. BLASIOLI stated that he did not really know [redacted] who "was overly involved in [redacted] BLASIOLI noted that his only experiences with [redacted] were when he was in Ticensing, working on [redacted] (Exhibit 35, p. 83).

CHATFIELD had a conversation with BUSCH on September 16, 1994, regarding [redacted] and other matters. CHATFIELD noted that independent of where [redacted] is assigned at NU, they are still going to have to respond to [redacted] issues. CHATFIELD recalled BUSCH saying that maybe they just needed to "fess up to the issues, apologize, and admit possible mistakes." CHATFIELD explained to BUSCH that [redacted] believed his unpopular decisions on certain issues tainted him and people retaliated against him in the selection process, in 1993. BUSCH noted that what he was saying was true from a human nature point of view. CHATFIELD noted that BUSCH's comment to him was that people are going to reflect on such incidents and act them out (Exhibit 32, pp. 70-77). CHATFIELD also noted in his conversations with BUSCH that, while he could not prove that harassment, intimidation, and discrimination existed, he could not prove that [redacted] had not been discriminated against. CHATFIELD noted that the culture "could have allowed it to exist" (Exhibit 93, p. 92).

AGENT'S NOTE: Upon questioning by NU counsel, CHATFIELD indicated that he believed BUSCH's comments to him were theoretical in nature, because CHATFIELD did not believe that BUSCH had any first hand knowledge of the selection process. CHATFIELD also indicated that the words "fess up" were his, but he did write in his notes "possible mistake" with regards to BUSCH's comments (Exhibit 93, pp. 105 and 106).

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CHATFIELD stated that, based on the information he had, he did not believe that [redacted] was the victim of discrimination by NU. However, CHATFIELD acknowledged that [redacted] protected activities "could have been part of the input to the decision making process for the people making the decision" (Exhibit 96, pp. 123-124).

On January 29, 1996, NU issued the Millstone Employee Concerns Assessment Team Report (MECAT) which looked at the NSCP operations at Millstone. It conducted over 180 interviews and looked at events dating back to 1991. While it concluded that the NSCP has been historically hampered by a lack of management support, it found that the NSCP lacked "sufficient resources and authority to properly process and resolve employee concerns in a timely manner" (Exhibit 90, p. 2). It further concluded that there was a "failure of employee/management relationships." The report concluded that "management manages the person raising the concerns and not the issue. A 'shoot the messenger' attitude has occurred frequently when assessment results and employee concerns have been presented . . . . The quality of communications is inconsistent and a 'chilling effect' may exist in certain areas . . . . A technically arrogant style continues to be exhibited. Management has a tendency to rely too heavily on a legalistic response to resolving issues . . ." (Exhibit 90, p. 3). The report also noted that its findings were "consistent with previous assessments, efforts, various studies and audit findings since 1991 . . . . The commonality of the key findings . . . (includes) lack of accountability, follow through, trust, 'shoot the messenger,' etc." (Exhibit 90, p. 2).

On July 24, 1996, NU released the Fundamental Cause Assessment Team (FCAT) report dated July 12, 1996. Among other things, the report concluded that: (1) "top levels of NU management did not consistently exercise effective leadership...;" (2) "[e]mphasis was often placed on justifying the status quo rather than resolving problems;" (3) "[t]here appeared to be a strong belief by senior management that the nuclear program . . . did not warrant significant criticism;" and (4) [m]anagement was ineffective in responding to many employee concerns [and] an overly critical or adversarial approach toward employee allegations was sometimes taken" (Exhibit 91, pp. 1-4).

#### Spot Recognition

[redacted] was hired by NU (KACICH) to work on the resolution of [redacted] safety concerns. In a [redacted] memorandum to KACICH, [redacted] noted that the originators of [redacted] were "left with the impression that these [redacted] were not viewed as being necessary and could result in the need for plant modifications which were not considered necessary by the plant staff" (Exhibit 84, p. 3). In a second memorandum, [redacted] recommended to KACICH that "management should favorably recognize [redacted] for his willingness to work within the NU system over a long period of time seeking resolution of an issue" (Exhibit 83, p. 2). On several occasions, CHATFIELD suggested to DEBARBA that some kind of recognition be given to [redacted] and others for the work they had done (Exhibit 82). In his initial response to OI questions, DEBARBA could not recall specifics about his discussions with

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CHATFIELD; in particular, he did not recall any specific recommendation concerning [redacted] coming to him from [redacted]. However, DEBARBA did recall that there were some discussions about recognitions for individuals, but he could not recall anything specific as a recommendation (Exhibit 28, pp. 8-12 and Exhibit 45, pp. 10-13).

On July 17, 1995, CHATFIELD and DEBARBA discussed the consideration of [redacted]

[redacted] They also discussed possible [redacted] for two others. CHATFIELD stated that the basis for the [redacted] for [redacted] might be fortitude, since each "persevered through thick and thin to bring their issues forward" (Exhibit 87, pp. 285 and 286). On August 4, 1995, CHATFIELD talked to DEBARBA about their previous discussion regarding [redacted]. DEBARBA indicated that it was not a closed issue and recommended that CHATFIELD send him an E-mail, after DEBARBA's vacation, to remind him of their discussion (Exhibit 94, pp. 15 and 16). In a memorandum dated August 10, 1995, CHATFIELD specifically recommended to DEBARBA a [redacted] for [redacted]. In particular, CHATFIELD wrote that in [redacted]

(Exhibit 82).

At first DEBARBA could not recall a [redacted] discussion that he had with CHATFIELD about [redacted]. In his second OI interview on this subject, DEBARBA recalled that he declined to give [redacted] for the work [redacted] had done concerning [redacted] because he thought [redacted] would have received it negatively" (Exhibit 28, pp. 9, 11, 13, 14, and 15). Neither

that were suggested by CHATFIELD.

#### Agent's Analysis

This investigation was initiated to determine whether an employee was retaliated against by his employer for having been involved in protected activities, which included raising safety concerns and taking strong positions on several safety related issues. While this agent's review of the facts concludes that [redacted] were the victims of discrimination, it should be noted that these were two of many individuals who lost supervisory positions during the 1993 engineering restructuring (or reintegration as described by NU).

While it was obvious to the reporting agent that [redacted] took to heart the loss of a supervisory position, [redacted] was quick to ask "why," but was not quick to rush out to raise a concern about retaliation. He indicated that this change was difficult for him to accept, since he had received good evaluations and positive feedback for the past [redacted] years. He also indicated a concern for his continued employment if he made a formal complaint. This is reflected in his letters to OI and the comments he has made to OI investigators.

This agent perceived a genuine concern by [redacted] about retaliation if he went forward with his complaint (Exhibit 81). This same concern was expressed by [redacted]

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Although ( ) had initially gone forward both within and outside NU, he was placed into a ( ) which he liked. NU's NSCP did not find in ( ) favor and ( ) declined to go forward with the state claim he had filed. Even when contacted by OI ( ) was reluctant to come forward because he did not want to place his current position in jeopardy. He also indicated that by raising a discrimination complaint to the NRC he could again be retaliated against by NU (Exhibit 6, pp. 52 and 71).

NU management, including DEBARBA, OPEKA, RISLEY, and others, has consistently stated that there was never any discrimination against ( ). Those individuals who were interviewed and involved in the selection process failed to recall anything that was presented by or among any of the participants that related to the raising of safety concerns or which negatively focused on either individual. They spoke about selecting the best person for the position, teamwork, and skills. But, those who were not familiar with the nominees or the position being filled relied on suggestions from others, as to who would be placed in the new positions. It came as no surprise that both ( ) individuals who had become visible players at Millstone on technical issues, were not offered as candidates for the new supervisory positions.

Both ( ) received good evaluations while serving as ( ) supervisors. Their evaluations reflect that they were talented and showed leadership skills. But, when the time came to staff the new organization, NU senior management (OPEKA and DEBARBA) went to many first-time supervisors to fill those positions. All but one of these newly appointed first-time supervisors had received the one hour screening by the Hay group. The one individual ( ) who did not receive Hay group screening, learned of his new appointment at a general meeting when the announcements were made of appointments to the new organization. Former supervisors were simply told that their skills did not mesh in the new organization. As with ( ) they were advised that their nonselection did not have anything to do with their performance as supervisors.

Unlike ( ), there was ( ) good evaluations. ( ) received an "NI," or "needs improvement" in the area of "monitoring and controlling work progress." As noted above, ( ) explained that this was due to the inordinate amount of work assigned to his group and not his failure to complete the assignments. ( ) admitted that he fell behind in the clerical task of writing assignment completion memoranda (Exhibit 72, pp. 4-8).

During the selection of managers, BONACA's opinion was solicited and he participated. During the selection of the supervisors, it is unclear what influence BONACA had on the process. BONACA indicates that he was not a party to the supervisory selection process and that his opinions were not sought. In fact, he stated that he disagreed with at least one of the selections for new supervisors in his group and would have made another selection, someone he

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knew. When asked, DEBARBA, RISLEY, OPEKA and others were not sure if BONACA was present during the supervisory selection process.

In his OI interview, DEBARBA stated that he was surprised to learn of BONACA's displeasure with any of the selectees (with the exception of KUPINSKI), and he did recall discussing manager selections with him. However, DEBARBA did not recall BONACA ever expressing any specific concerns about the supervisors (Exhibit 28, pp. 72-73) and could not recall any specific discussion with BONACA about supervisors (Exhibit 28).

With Regard to:

involvement in several issues raised his name to DEBARBA at a time when selections were being made for supervisory positions in the new unit, engineering groups. In particular

downfall.

Performance Management Ratings clearly do not reflect an appraisal of someone who was on the fringe. Statements like strengths "show a technical ability, along with an ability to lead subordinate team members." Terms like "strong sense of ethics", "excellent" efforts, and "honesty in and a willingness to pursue tough issues" appear to be qualities to be envied in the supervisory selection process. But his rater also tagged with being involved in "some management conflict," when

does not rise to the level of a safety concern, it does represent another factor which was likely considered in the process, but not acknowledged by selecting officials.

With Regard to:

In addition to the issues that raised on the heat exchangers and the work which he did on the MOVs, wrote several memoranda on the safety related work. He was critical of the money and effort given to the resolution of the MOV issues and sought increased support and funding. While DEBARBA indicated that he never viewed positions as "unpopular," he indicated that "the subject never came up during the selection process." But, DEBARBA specifically recalled involvement in TBSCCW when he had an occasion to be briefed or asked the question (Exhibit 28, pp. 39, 41, and 42).

This agent finds it significant that: (1) was outspoken on several issues and sends critical memoranda to DEBARBA and others, with several cc's; (2) RISLEY questioned KUPINSKI, in a very "intimidating" manner, about who is and why is writing letters to (3) RISLEY tells KUPINSKI that he can "make" him or "break" him; (4) RISLEY attends a meeting

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with other new unit directors and DeBARBA a week or so after his comments to KUPINSKI; (5) at the selection meeting with RISLEY, PITMAN, and others, DEBARBA noted that [redacted] did not show "customer type focus;" and (6) [redacted] was not selected for a supervisory position in the new organization. Was that intended to be a message to KUPINSKI? Was it a way of controlling [redacted] Or was it simply retaliation? Combined with other facts, it is the opinion of this agent that it is discrimination.

While the "doing business" position was clearly articulated by the NU senior managers and managers, there were several factors which weigh in favor of a finding of discrimination. While not in any specific order, they are summarized as follows:

1. Both [redacted] were involved in controversial issues, most of which were safety related, and neither was selected for supervisory positions in 1993;
2. Both [redacted] were involved in issues which were clearly visible to the directors (RISLEY) and vice-presidents (DEBARBA and OPEKA) involved in the selection of supervisors;
3. BONACA was asked to participate in the selection of managers, but he was not a participant in the selection of supervisors for his organization. (It appears that he was the only incumbent director with a vacancy who did not participate.);
4. BONACA did not agree with all of the supervisory selections for his group;
5. Supervisory selections were not bid as is customary with vacancies at NU;
6. There was no preference given in the supervisory selection process for incumbent supervisors;
7. While some records were maintained with regard to a methodical process used in the selection of vice-presidents and managers, there were not any records available to reflect any evaluative, logical, and methodical process used in the selection of supervisors;
8. The 360 degree assessment records were generated over a period of several months and available for review, while only the supervisory candidates who were not presently supervisors were permitted to go through the one-hour Hay Group appraisal process. (One exception to this was [redacted] who did not go through any screening and was not a current supervisor at the time of the screening.);
9. Only one individual (NECCI) recalls [redacted] name being mentioned for consideration for a supervisory position in the new organization and the same individual recalls DEBARBA mentioning the [redacted] did not have

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*[Handwritten initials]*  
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"customer type focus;" no one recalls name being mentioned during the process;

10. Both were told that their prior performance as supervisors was not the basis for their not being reappointed to supervisory positions; neither could recall that DEBARBA was able to give them any specific information as to why they were not selected;
11. One characteristic considered in new supervisory appointments was "team player," which is not likely to be the label given to someone who disagrees with management on safety related issues, which could cause the plant to be shut down and lose money;
12. and others had written memoranda, either directly to, or with copies to, DEBARBA and OPEKA on the issues which they or their staffs were involved with and they supported;
13. had been a supervisor for about years and for about years;
14. Unlike the process used for the selection of managers, there was no discussion/evaluation about each of the candidates for a supervisory position (see Exhibits 79 and 80);
15. Unlike the process used for the selection of managers, there was no matrix developed indicating a list of skills or desirable traits (etc.) which could then be discussed, evaluated and scored against, for the new supervisory positions and the list of candidates;
16. When it came to filling a supervisory vacancy, those involved in it, usually the vice-presidents and directors who were responsible for the new organization, suggested names; with this process, it was not necessary to verbally discard the name of someone who raised concerns; all that was necessary was not to offer that person as a candidate;
17. OPEKA indicated that he deferred to the vice-presidents and directors for the names of individuals who would fill the vacancies in the new organization; but, he did accept responsibility for the final selection;
18. The selection process for supervisors was secretive and any records which were generated at the end of the process were collected and, with few exceptions, destroyed; this process invites criticism and concerns about the destruction of evidence;
19. RISLEY's comment to KUPINSKI that he could make him or break him, within one month of participating in the selection of supervisors for the new NU engineering organization;

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20. [redacted] and CHATFIELD suggested some kind of [redacted] for the work done by [redacted] and others; CHATFIELD specifically recommended to DEBARBA, on several occasions, [redacted] for [redacted]
21. At first DEBARBA could not recall [redacted] discussion and then DEBARBA recalled that he declined to give [redacted] for the work [redacted] had done concerning 1-CU-29, because he thought: "would have received it negatively" (Exhibit 28, pp. 9, 11, 13, 14, and 15);
22. DEBARBA said he knew all the people selected (Exhibit 28, p. 32);
23. KUPINSKI's memorandum to BONACA regarding 1-CU-29 talks about the existence of a "chilling environment at NU" (Exhibit 47, pp. 107-109);
24. CHATFIELD sees part of the problem at Millstone as an indication of "group think" (Exhibit 87, p. 237; see also Exhibit 33, pp. 7-11);
25. DEBARBA's statement to CHATFIELD, in a discussion regarding the decision process involved with 1-CU-29, that the inherent conflict between the engineering division and the drive to complete operation was one of the major thrusts for the reorganization effected in November 1993 (Exhibit 88, pp. 21 and 22 and Exhibit 88, p. 3);
26. The Fundamental Cause Assessment Team (FCAT), July 12, 1996, and Millstone Employee Concerns Assessment Team (MECAT) January 29, 1996, reports all present evidence of an environment which has existed over a period of years and is more likely to support retaliation against someone who raises safety concerns than one which is not (Exhibits 90 and 91);
27. The MECAT report concluded that there was a "failure of employee/management relationships." The report concluded that "management manages the person raising the concerns and not the issue. A 'shoot the messenger' attitude has occurred frequently when assessment results and employee concerns have been presented . . . . The quality of communications is inconsistent and a 'chilling effect' may exist in certain areas . . . . A technically arrogant style continues to be exhibited. Management has a tendency to rely too heavily on a legalistic response to resolving issues . . . ."
28. The MECAT report also noted that its findings were "consistent with previous assessments, efforts, various studies and audit findings since 1991 . . . . The commonality of the key findings . . . (includes) lack of accountability, follow through, trust, 'shoot the messenger,' etc." (Exhibit 90); and
29. In meetings with [redacted] both individuals expressed continued concern for their livelihood at NU if they cooperated with OI during

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this investigation; they seemed genuine about their past dealings with NU management and genuine in their beliefs about discrimination.

The reporting agent believes that NU managers did look for team players, individuals who were willing to stay the course and not rock the boat, and who would make decisions that would keep the plants running. They sought people without "myopic vision," who could do the job and work under management's direction. When it came to the filling of supervisory positions, they (Vice-presidents, Directors and others) acted swiftly, filling those vacancies within a few short weeks. The key player in the supervisory selection process (as it pertained to ) was clearly DEBARBA; and, based on the comments he made to KUPINSKI, RISLEY may also have had an active role. Whether the resulting discrimination is the product of "group think," as CHATFIELD likes to describe it, or a conspiracy by the senior members of a corporation to ensure the smooth operation of a nuclear facility at any cost, or even disconnected discriminatory acts by a large corporate entity, what is clear is that the nonselection of ) was the result of retaliation/discrimination for their involvement in protected activities by NU.

### Conclusion

Based upon the evidence developed during this investigation, OI concludes that NU discriminated against ) for being involved in protected activities. This investigation further determined that ) was also discriminated against by NU. Specifically, OI finds that, due, at least, in part, to their involvement in protected activities, both employees were not reassigned to supervisory positions in 1993 pursuant to an engineering re-integration at NU.

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SUPPLEMENTAL INFORMATION

On August 6, 1996, Barry R. Letts, Director, OI:RI discussed the facts of this case with Joseph C. HUTCHISON, Assistant U.S. Attorney (AUSA), U.S. Attorneys Office, District of Connecticut, New Haven, Connecticut. AUSA HUTCHISON requested a copy of the investigation for review by his office.

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Investigation Status Record, dated January 24, 1996.
2	Transcribed Interview of                    dated January 24, 1996.
3	Organization Charts, dated October 1993.
4	Organization Charts, dated April 1994.
5	Letter from NU to the NRC, dated April 29, 1988.
6	Transcribed Interview of                    dated May 8, 1996.
7	Transcribed Interview of ECKENROTH, dated April 16, 1996.
8	Interview Report of BONACA, dated August 7, 1996.
9	Transcribed Interview of (                    ) dated May 15, 1996.
10	Transcribed Interview of HAYNES, dated May 15, 1996.
11	Transcribed Interview of                    dated May 2, 1996.
12	Transcribed Interview of KUPINSKI, dated December 12, 1995.
13	Transcribed Interview of                    ; dated April 17, 1996.
14	Interview Report of MODOONO, dated May 3, 1996.
15	Transcribed Interview of NECCI, dated May 14, 1996.
16	Transcribed Interview of                    dated May 2, 1996.
17	Transcribed Interview of                    ) dated April 17, 1996.
18	Transcribed Interview of OPEKA, dated May 14, 1996.
19	Transcribed Interview of PITMAN, dated May 15, 1996.
20	Transcribed Interview of                    ) dated March 18, 1996.
21	Transcribed Interview of SCACE, dated May 15, 1996.
22	Transcribed Interview of                    ; dated May 2, 1996.

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- 23 Transcribed Interview of [redacted] dated May 2, 1996.
- 24 Transcribed Interview of [redacted] dated May 2, 1996.
- 25 Transcribed Interview of AUSTIN dated May 29, 1996.
- 26 Transcribed Interview of RISLEY dated June 2, 1996.
- 27 Transcribed Interview of WILSON, dated June 13, 1996.
- 28 Transcribed Interview of DEBARBA, dated July 18, 1996.
- 29 OPEKA Memorandum, dated November 8, 1993.
- 30 Transcribed Interview of KUPINSKI, dated June 12, 1996.
- 31 Transcribed Interview of [redacted] dated June 13, 1996.
- 32 Transcribed Interview of CHATFIELD, dated April 9, 1996.
- 33 Transcribed Interview of CHATFIELD, dated May 29, 1996.
- 34 Transcribed Interview of [redacted], dated May 29, 1996.
- 35 Transcribed Interview of BLASIOLI, dated May 30, 1996.
- 36 Transcribed Interview of [redacted] dated May 30, 1996.
- 37 Hay Group "Executive 360 degree Managerial Assessment and Development Guide" with cover letter from P. RANDALL, Esq., dated May 17, 1996.
- 38 Interoffice Memorandum from [redacted] dated [redacted]
- 39 Performance Evaluations of [redacted]
- 40 Performance Evaluations of [redacted]
- 41 Nuclear Concerns Program Investigation and Case File re:
- 42 Transcribed Interview of [redacted] dated June 12, 1996.
- 43 Transcribed Interview of BONACA, dated June 26, 1996.
- 44 Transcribed Interview of SILKO, dated July 17, 1996.
- 45 Transcribed Interview of DEBARBA, dated March 6, 1996.

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- 46 Memorandum from ( ) dated September 1, 1993.
- 47 Letter from ( ) to OII, dated December 1, 1995.
- 48 Memorandum from ( ) dated May 6, 1993.
- 49 Note from DEBARBA, dated June 9, 1993.
- 50 Meeting Notice, dated August 18, 1993.
- 51 Meeting Notice, dated September 21, 1993.
- 52 Memorandum from HAYNES to ( ) dated September 24, 1993.
- 53 Memorandum from ( ) dated October 15, 1993.
- 54 Memorandum from ( ) , dated October 22, 1993.
- 55 Memorandum from ( ) , dated October 29, 1993.
- 56 Memorandum from ( ) dated November 1, 1993.
- 57 Memorandum from ( ) dated November 3, 1993.
- 58 Interoffice Memorandum from ( ) to HAYNES, dated 1993,
- 59 Memorandum from ( ) dated November 4, 1993.
- 60 Memorandum from ( ) dated October 8, 1993.
- 61 Performance Evaluation of ( )
- 62 Memorandum from ( ) dated August 12, 1992.
- 63 Memorandum from ( ) , dated September 1, 1993.
- 64 Memorandum from ( ) , dated September 8, 1993.
- 65 Memorandum from ( ) dated November 25, 1991.
- 66 Memorandum from ( ) dated January 14, 1992.
- 67 Memorandum from ( ) dated February 12, 1992.
- 68 Memorandum from ( ) dated February 26, 1992.
- 69 Memorandum from ( ) dated April 1, 1992.
- 70 Memorandum from ( ) dated January 19, 1993.

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- 71 Memorandum from ( ) dated November 3, 1993.
- (72) Transcribed Interview of ( ) dated July 17, 1996.
- 73 (Resume:
- 74 Memorandum from KUPINSKI to FILE, dated June 29, 1992.
- 75 Memorandum from ( ) to DACIMO, dated October 1, 1993.
- 76 Memorandum from ( ) dated November 19, 1993.
- 77 Memorandum from ( ) , dated January 27, 1992.
- (78) Memorandum from ( ) dated April 21, 1992.
- 79 Notes provided by L. ECKENROTH (undated).
- 80 Notes provided by J. OPEKA (undated).
- 81 Letter from ( ) to OI, dated August 7, 1995.
- 82 Memorandum from CHATFIELD to DEBARBA, dated August 10, 1995  
(Reminder on:
- 83 Memorandum from ( )
- 84 Memorandum from ( )
- 85 Notes provided by E. DEBARBA (undated).
- 86 Transcribed Interview of KACICH, dated March 25, 1996.
- 87 Transcribed Interview of CHATFIELD, dated February 22, 1996.
- 88 Transcribed Interview of CHATFIELD, dated November 14, 1995.
- 89 Letter to Concernee from CHATFIELD, dated October 31, 1995.
- 90 Executive Summary of the Millstone Employee Concerns Assessment  
Team Report, dated January 29, 1996.
- 91 Executive Summary of the Report of the Fundamental Cause  
Assessment Team, dated July 12, 1996.
- 92 Transcribed Interview of CHATFIELD, dated January 24, 1996.
- 93 Transcribed Interview of CHATFIELD, dated April 9, 1996.
- 94 Transcribed Interview of CHATFIELD, dated March 19, 1996.

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- 95 Transcribed Interview of CHATFIELD, dated January 25, 1996.
- 96 Transcribed Interview of CHATFIELD, dated February 21, 1996.

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Title: MILLSTONE UNITS 1, 2, AND 3:

DISCRIMINATION AGAINST NU EMPLOYEES FOR ENGAGING IN PROTECTED ACTIVITIES

Licensee:

Northeast Nuclear Energy Company  
P.O. Box 270  
Hartford, Connecticut 06141

Docket Nos.: 50-245/336/423

Case No.: 1-96-007

Report Date: November 21, 1996

Control Office: OI:RI

Status: CLOSED

Reported by:



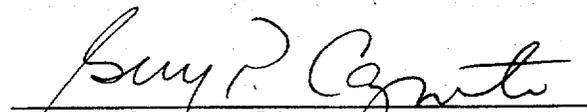
Daniel R. Gietl, Special Agent  
Office of Investigations  
Field Office, Region IV

Reviewed by:



Barry R. Letts, Director  
Office of Investigations  
Field Office, Region I

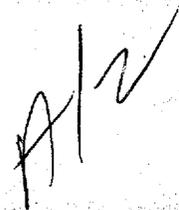
Approved by:

  
Guy P. Caputo, Director  
Office of Investigations

Information in this record was deleted  
in accordance with the Freedom of Information  
Act, exemptions 7c  
FOIA- 99-098

WARNING

This Report of Investigation consists of pages 1 through 41, with exhibits 1 through 61. It has not been reviewed pursuant to Title 10 CFR Subsection 2.790(a) exemptions nor has any exempt material been deleted. Do not disseminate, place in the Public Document Room or discuss the contents of this report outside NRC without authority of the approving official of this report. Treat as "OFFICIAL USE ONLY."



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LIST OF INTERVIEWEES

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(  
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NU . . . . . )

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DELOACH, Jeb, Executive Associate, NU . . . . . 57

DUBE, Donald, Manager, Safety Analysis, NU . . . . . 37

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OPEKA, John, former Executive Vice President - Nuclear, . . . . . 60  
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SCHMIDT, Richard, Senior Engineer, Nuclear Analysis, NU . . . . . 53

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# DETAILS OF INVESTIGATION

## Applicable Regulations

10 CFR 50.5: Deliberate misconduct  
10 CFR 50.7: Employee protection

## Purpose of Investigation

This investigation was initiated by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region I, on April 30, 1996, to determine whether former employees of Northeast Nuclear Energy Company (also known as Northeast Utilities System (NU)) were selected for layoff in the NU work force reduction on January 11, 1996, in retaliation for having raised safety concerns (Exhibit 1).

## Background

On March 5, 1996, an NRC Task Force began work on a comprehensive review of NU's work force reduction process, as it was applied to employees who had previously engaged in protected activities. The Task Force was seeking to determine if there was sufficient evidence to suggest that it was likely the process was utilized to discriminate against such employees.

The Task Force reviewed records related to approximately 95 individuals laid off in January 1996 and met with NU officials. The Task Force conducted an in-depth review of 21 of those individuals laid off, including interviews of the subjects and the supervisory personnel involved in the decisions to layoff the employees. The Task Force presented an oral report to the NRC Executive Director for Operations (EDO) in April 1996. Certain aspects of the Task Force efforts were referred to OI for investigation of potential discrimination against

## Documentation Review

1. An NU provided work force reduction matrix for DUBE's groups (Exhibit 9) shows that [redacted] was rated the [redacted] among all [redacted]. Attached to the matrix is a two page memorandum from DUBE to Linda GUERARD, NU Senior Human Resources Analyst, that explains the inconsistencies between past performance evaluations and his matrix evaluation. DUBE noted [redacted] transfer into the [redacted] earlier and a change in supervisors, which resulted in an inflated performance score for his [redacted] one complete year in the group. DUBE specifically noted [redacted] in Quality/Quantity of work, and that he [redacted] was [redacted] effectiveness and commitment to change. Also noted was that [redacted] produced [redacted] work than the lower skilled and ranked [redacted] in the [redacted] and that much of his [redacted] effort was spent working on [redacted] performance appraisals for [redacted]. (Exhibits 10 and 11) are exhibited with this report. In [redacted] [redacted] was provided performance expectations for [redacted] (Exhibit 12), and [redacted] item number [redacted] noted that [redacted] needed to improve his [redacted] knowledge by participating in the training sessions offered by the [redacted]

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supervisor or his designee. ( ) was also given a ( ) midyear review (Exhibit 13) that noted ( ) would be the focus area for improvement.

2. NU provided work force reduction matrix for ( ) (Exhibit 14) shows that ( ) was rated the ( ) among the employees in the group. The matrices for the other groups under KUPINSKI were not provided by NU and the NRC Task Force was told they had been destroyed. Attached to the matrix is an unsigned and undated one page memorandum that provides an analysis of ( ) performance appraisals, specifying the weaknesses and strengths. It notes that ( ) was excellent on the ( ) but his ( ) "was not as good, leading to a weaker performance overall." It further notes that, "in the past there had been a role for a

( ) performance appraisals (Exhibits 15 and 16) are also exhibited with this report.

3. An NU provided work force reduction matrix for the groups under GUERCI (Exhibit 17) reflect that ( ) was ranked the ( ) among all

( ) was also ranked ( ) than the ( ) performance appraisal with his ( ) attached employee comments (Exhibit 18), and his ( ) performance appraisal, with ( ) of attached employee comments (Exhibit 19). are exhibited with this report. These comments reflect, in detail, ( ) disagreement with the scores on his evaluations.

4. ( ) letter, dated March 25, 1996, to the Department of Labor (Exhibit 20), cites his layoff from NU for having worked on nuclear technical and safety concerns. ( ) identified that he related to two issues he had worked on, the ( ) and for which he received a performance evaluation. ( ) believes he was discriminated against for having worked on these two problems and having solved them for NU. ( ) attachments include a summary of the situation, first to his supervisor ( ) (Exhibit 21), and then a summary to his director and manager (Exhibit 22). A third attachment (Exhibit 23) is the November 30, 1995, NU notification from Human Resources that ( ) was rejected; that NU believed he had been fairly evaluated. This decision was signed by three NU vice presidents, Eric DEBARBA of Engineering, Robert J. KOST of the Western Region, and Edward M. RICHTERS of Human Resources.

( ) letter to OI, dated June 24, 1996 (Exhibit 24), adds clarification to the statements he had provided at the OI interview of June 20, 1996. One of ( ) attachments to this letter (Exhibit 25) is a summary of his performance appraisals from ( )

AGENT'S NOTE: There was a different rating scale prior to ( ) and it is difficult to compare to the ( ) period. The summary reflects a ( ) in certain competencies, including ( )

It is

noted that there was a ( ) indicating a gradual ( ) with a ( ) in performance.

5. An NU provided organization chart reflects NU nuclear activities, with various dates shown per department, with all dates around the summer of 1995. Exhibited with this report are Chart 1, reflecting the Nuclear Group; Chart 2, reflecting Engineering; and Charts 2E through 2E-4, reflecting Nuclear Engineering (Exhibit 26).
6. An NU letter, dated February 15, 1996, to the NRC (Exhibit 27), signed by Ted FEIGENBAUM, Executive Vice President and Chief Nuclear Officer, responds to a request for information regarding the layoffs in January 1996. This letter provides the basic information regarding the NU downsizing, including early retirements and the matrix process. Attached to this letter, but not exhibited with this report, is an in-depth description of the downsizing process. This letter also discusses, at some length, the waiver process and severance agreement. Also attached to this letter and exhibited with this report is a chronological table reflecting significant events and their dates regarding the downsizing process.
7. An internal NU memorandum, dated June 29, 1995, from R. M. KACICH to Nuclear EVP, Direct Reports & Unit Directors (Exhibit 28), provided the 1996 and 1997 staffing reduction breakdown. According to this memorandum, the staffing reductions match the cumulative reduction table (5 year plan) of the strategic business plan and the reduction numbers were provided by the directors and managers. The reductions for Engineering are shown as a total of 35, including a reduction of 7 employees in BONACA's department.
8. An internal NU memorandum, dated January 9, 1996 (Exhibit 30), from Mary RILEY, Legal Department, to BUSCH, notes the legal efforts provided during the downsizing. This memorandum describes the "added assurance" review done by legal for all the employees recommended for layoff who had previously raised safety concerns. Exhibited with this report are two lists, one with all of the employees that were laid off on January 11, 1996, and a list of all employees that received the added assurance review (Exhibit 31).
9. An internal NU memorandum, dated January 29, 1996 (Exhibit 32), from R. J. DELOACH to D. B. MILLER, Jr., Vice President Nuclear Safety and Oversight, provided work force reduction feedback, including concerns and lessons learned. The first issue noted, "Popular perception is that "yes men" are the valuable employees and that raising of technically sound positions but "unpopular" ones may not be viewed as valuable." There are several critical items noted regarding the way the downsizing was conducted.
10. An internal NU memorandum, dated January 30, 1996 (Exhibit 29), from M. D. QUINN to FEIGENBAUM, transmitted the Millstone Employee Concerns Assessment Report.

AGENT'S NOTE: Due to its voluminous nature, only the Executive Summary of this report is exhibited with this memorandum. The in-depth report will be maintained in the OI files for review.

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This assessment was based on interviews of over 180 individuals, from all levels of the nuclear organization, from the President of the Energy Resources Group to first level employees, and with individuals outside nuclear and from the NRC. The report notes their findings were consistent with previous assessments, studies, and audits conducted since 1991. The report is critical of NU management and their inability to properly process and resolve employee concerns in a timely manner. The assessment notes there is a lingering lack of trust in management and a "shoot the messenger" attitude has occurred frequently when employee concerns have been presented. The assessment also reports that a "chilling effect" may exist in certain areas. The report notes that this situation has been compounded by, "the general inability on the part of many management individuals to frankly admit when they are wrong." The report added, "A technically arrogant style continues to be exhibited. Management has a tendency to rely too heavily on a legalistic response to resolving issues, an approach that alienates employees, the public and regulators."

11. An NU letter to the NRC, dated August 8, 1996 (Exhibit 33), responded to the OI request to review the added assurance records and interview, if necessary, the individuals conducting the added assurance review. NU invoked the attorney-client privilege and refused to waive the privilege.

12. As part of NRC Inspection Report 96-06, NRC Region I Senior Reactor Analyst James TRAPP, prepared a feeder report (Exhibit 34) that addressed the issues raised by [redacted] and the disposition of them by NU. TRAPP also provided additional clarification of the feeder report to OI (Exhibit 35). TRAPP's inspection covered [redacted] issues at Millstone [redacted]

Specifically, TRAPP found:

Interview with Allegor -

was interviewed by the Task Force on March 22, 1996 (Exhibit 2), and stated he had been employed by NU for

which was his position when he was laid off from NU on January 11, 1996. and Donald DUBE was his manager.

said that during his tenure in he worked for and later, after promotion to supervisor, worked along side/ and became involved in the Rosemount transmitter issue. in conjunction with the Rosemount transmitter issue, was interviewed by OI in 1989 or 1990. did not have an NU attorney with him during this interview and later heard he was cited which he believes was made known to NU. was concerned that NU might have thought him disloyal for not having a company attorney with him, particularly as he discussed protected activities.

During his employment, raised concerns, "although, I did not formally initiate any safety complaints" (Exhibit 2, p. 13). was Larry CHATFIELD, who headed the NU Nuclear Safety Concerns Program, and he worked through CHATFIELD or his supervisor, on the issues. His

told CHATFIELD about this problem and a few months later CHATFIELD told there was action taken on the event and there had been classes for the managers to get them thinking more about safety, rather than just economics.

The

contacted CHATFIELD and told him an engineer was quoted as saying NU had known about this problem for a couple of years. had been concerned more with a pattern of trying to "brush aside safety issues" (Exhibit 2, p. 21). CHATFIELD later sent a report that documented the results of the investigation into this problem.

The

the company needed to be more economical, smarter, and save money, and that the NRC allows other plants to have such a policy. CHATFIELD had one of his engineers assure

that this new policy had been decided at the highest management levels (Exhibit 2, pp. 24-30).

The

did not think NU would have the problems cited by  
(Exhibit 2, pp. 31 and 32); believed response adequately addressed the issue

The

could explore this possibility, his  
employment was terminated (Exhibit 2, pp. 33-36).

said he did not see any changes in his relationships or performance evaluations for having raised these issues; that his appraisals had always been good or excellent, but he had not been given credit for raising these issues. In a meeting with he was pleased with his performance, that all commitment dates had been met on work assigned to him. Neither had ever discussed with him a need to change, but rather had praised him for getting along with his co-workers (Exhibit 2, pp. 37-42).

disagreed with the statement that the other, even the  
did considerably more work than him. said he was  
in but it had not impacted his work.  
said he did not do any

Later, at the end of the interview,  
wanted to add some clarification to his statement and stated. "And there  
probably were occasions, during the work day,"

(Exhibit 2, p. 63).

said on the day of his termination he was told by  
they could not discuss with him why he had been selected for termination.  
said he eventually signed the waiver, after he had two attorneys review  
it, because he needed the money; but he felt "railroaded" into signing,  
because either you received the money or not, and he had bills to pay  
(Exhibit 2, pp. 55-57).

was interviewed on a second occasion on July 8, 1996 (Exhibit 3), by OI  
and confirmed many of the same statements given at his earlier interview.  
said he was not sure whether his employment termination was retaliation  
by management for raising concerns, but he believes it was one of the factors.  
could not cite any other factor as the cause of his termination.  
said he was told by reorganization, although he was  
not sure of position at the time, that he would no longer  
be a supervisor. was told he was doing a satisfactory job, but that

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they were more comfortable working with another individual. [redacted] said he did not mean to convey, during his first interview, that NU went with this other person because he was younger; they went with this other person who happened to be younger. [redacted] said that during his first interview with the NRC he offered his reasons why he had been demoted and did not mention his prior association with [redacted] as a cause of that demotion.

[redacted] said he was the one to request assignment to [redacted] after his demotion, and he believed he had the necessary expertise. [redacted] said he spent his [redacted] and having them found acceptable by his peers. [redacted] did not know if he was working at the same level as his peers, who had been there 10 years or more, but he did accomplish all the assignments given him.

AGENT'S NOTE: It was noted to [redacted] that, in both interviews, he discussed the [redacted] issues he raised and it appeared that CHATFIELD and [redacted] were supportive and provided him acceptable resolutions. During the first interview, [redacted] had also indicated that he had not raised these [redacted] issues as formal technical concerns, but as concerns that needed to be addressed. [redacted] was asked by OI why he believed he had been discriminated against for having raised these [redacted] concerns.

[redacted] responded, "I raised them because what they would be called would be protected activities. I don't know exactly why, you know, I was terminated. I don't know if it was because I raised these safety issues. These were questions, I think, that were asked by the fellows I talked with before. So I don't know if these issues were a reason why I was terminated. But I also raise them from the other standpoint of, you know, here's an example of me doing my job. Northeast Utilities is in a jam because of a lot of safety issues. I give this as an example of me trying to affirmatively help the company and do my job. But yet for some reason, they're ranking me low, however they rank me, in order to terminate me. So I don't see it. I don't know what went on. All I'm doing is providing information to try to resolve this" (Exhibit 3, p. 43). [redacted] later said it is the [redacted] to raise concerns.

AGENT'S NOTE: [redacted] was advised that during his first interview he told the NRC he had not done [redacted] then later acknowledged he had spent minimal time [redacted] [redacted] was also told that NRC had interviewed some of his peers and they stated [redacted] had been [redacted] was asked by OI if the peers had any reason not to be truthful.

[redacted] said he had no reason to believe his peers would not tell the truth. [redacted] admitted, when questioned, that he had been helping another employee [redacted] was told of other employee comments that he had spent a lot of company time doing personal business, such as [redacted] [redacted] said he had permission to [redacted] and did do some [redacted] during company time, but he did not think it was excessive. [redacted] said he would also [redacted] said the no culture allowed for personal business on company time, as long as it was not excessive.

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AGENT'S NOTE: [redacted] was advised by OI that his peers thought the personal business on company time was excessive and that interviews of NU management by the NRC found the same opinion. Further, because of this personal business, [redacted] had not carried his load, and as a he was supposed to [redacted]

[redacted] responded, "If your talking to management about these, I would consider these minor matters. To me, they're fishing for straws or something to base a layoff on." [redacted] was advised the majority of these opinions were from other employees and [redacted] replied, "Okay" (Exhibit 3, pp. 48 and 49). [redacted] later acknowledged that he had [redacted] before his demotion from supervisor, but absolutely denied that at [redacted] when the

[redacted] telephoned this investigator on July 12, 1996 (Exhibit 4), and commented, regarding his employment with [redacted] that the other employees did not know what he had been doing. There were times when [redacted] relied on his

[redacted] but it was not an every day occurrence, it was sporadic, and the meetings were only 10 to 15 minutes at a time. [redacted] said [redacted] saw him [redacted] helping [redacted] and had ample opportunity to say something, but he never said a word.

Testimony of [redacted] Peers and Immediate Management Officials

[redacted] was interviewed on April 4, 1996, by the NRC Task Force (Exhibit 36). He was the [redacted] and reported to DUBE. [redacted] said there were [redacted] and before downsizing began their workload was challenging; they had a lot of work.

[redacted] said he had reviewed a 7 page document explaining the competencies to be used in the matrix process and then provided oral input to DUBE on the members of his group, including [redacted]. This input did not include scores, and [redacted] did not know the ratings assigned by DUBE. He assumed [redacted] was one of the [redacted] individuals in his [redacted] group, because he [redacted] ranked [redacted] in certain traits and attributes. [redacted] said he did not know why [redacted] was the one selected from the [redacted] performers, but has a strong suspicion that he [redacted] was [redacted] because he was on the [redacted] end on many traits, including (effectiveness and commitment to change).

[redacted] said [redacted] had come to [redacted] years earlier and had [redacted] either helped others or did little things. [redacted] said [redacted] "didn't know much. [redacted] he did not become that person, and even when I give him something, I had to basically be with him, and which was a big burden to me" (Exhibit 36, p. 32). [redacted] was the [redacted] in [redacted] and did not do as much work as some of the [redacted] (Exhibit 36, p. 36). [redacted] had given [redacted] acceptable performance [redacted] appraisals, as he was trying to motivate [redacted] did not recall

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raising safety concerns anymore often than any other member of the  
and it was the to raise concerns (Exhibit 36, p. 48).

DUBE was interviewed on April 3, 1996, by the NRC Task Force (Exhibit 37). He reported to BONACA, and said that was one of the supervisors that reported to him [DUBE]. In the requested reassignment and was accepted by DUBE. During the downsizing in 1995, DUBE "normalized" his supervisors' rankings and compared his rankings with the other managers in BCNACA's department. DUBE was told if an individual was a candidate for involuntary separation, "that you should put an "X" in it, and in the first iteration I did not feel that anybody in the branch should be X'd, should receive an "X"; should be let go." DUBE sent his matrices forward to BONACA with no employee recommended for layoff, but they came back, and GUERCI, who was acting for BONACA, said was one of the persons identified and he should be X'd (Exhibit 37, pp. 18 and 19).

When asked why he had not X'd originally, DUBE said, "Because Northeast Utilities is a benevolent work place and it's extremely rare to let somebody go for low performance, and I didn't think he was at the threshold of total incompetence or anything like that. He was a good person. I knew him personally. He was well liked" (Exhibit 37, p. 21).

DUBE said was the and his departure would not impact the group's overall performance because performance had been During he had not progressed very well, and there were that did better work than DUBE said there was a belief that was just putting in time while (Exhibit 37, pp. 22 and 23). DUBE acknowledged that performance appraisals were not too bad, no NIs and a lot of Qs (satisfactory), but peers had complained to that was not performing and they had to carry his load (Exhibit 37, p. 28). was unaware of raising concerns or going to the NRC and was not aware there was a relationship between until seeing a after the layoff (Exhibit 37, p. 29).

OI interviewed former peers of June 4, 1996 are

(Exhibit 40). These stated that it is the job of to and in doing so, they necessarily identify and raise safety concerns. are recognized as very technically competent individuals who have supported and encouraged their employees to identify and raise all safety concerns. The employees were not surprised that was selected for layoff because they ranked him as the in the group, one who had not developed as a stated that there were who accomplished more work than stated that had told him that if one person was to be laid off it would be him as he was not up to the level of the others in the (Exhibit 40, p. 26). The employees further advised that not only did not have the skills for but had failed to show any effort to acquire those skills. These peers also provided information about performing excessive amounts of

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Interview with Alleger - /

was interviewed by the NRC Task Force on March 21, 1996 (Exhibit 5). He stated that he began his employment with NU on /

last / years, and Matt KUPINSKI was his manager. / was / supervisor for the

said there were / people in his group in / but / and he was laid off in January 1996. / was told by KUPINSKI that his / employment was being terminated as part of the business plan, but did not offer any reason as to why he / had been selected. / signed the waiver and collected over / after taxes, and the only pressure on him to sign the waiver was from /

said, "I was very involved with the Rosemount transmitter issue with / and then again with some of the level issues for both the boiling water and the pressurized water reactors, and there were some issues / that I was assigned to do that I uncovered some items and / until just before I was laid-off, and this was -- I was talking to -- and it is rather ironic that I was talking to the nuclear safety concerns people just before some of these decisions were made" (Exhibit 5, pp. 21 and 22).

was also doing work at Millstone to help resolve problems, and there was an issue "as to whether a certain / that we had designed was an unreviewed safety question or not and different people had different feelings and I ended up talking to the nuclear safety concerns people about how that was going and how things seemed like one hand didn't know what the other hand was doing with some of the meetings, the operational review committee meetings at the plant" (Exhibit 5, p. 22).

added that, because he had remained a / that is why he had been terminated. / added that / often said derogatory things about / because he / thought / had caused NU a lot of problems.

also said he was not surprised he had been selected for layoff, as he was the / while the others had / added, "the few remaining of us who had worked with directly for / and were people that it has now been seen that they're -- they brought ( / in to basically replace me. It seems rather ironic that they eliminated us at a time when things were -- they had so much work in that area and at the time I was laid-off all the problems at Millstone 1 were going on and there was need for expertise and yet they still laid several of us off that had expertise in those areas" (Exhibit 5, p. 37).

was interviewed by the OI on June 20, 1996 (Exhibit 6), and he provided information in support of his prior statements to the NRC Task Force. / noted that he was / and that the others in his group were / however, other than their differences in / he did exactly the same work as the

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acknowledged that the ( ) brought in after he was terminated was at the time Millstone had been put on the watch list, but was not necessarily to replace him. ( ) added, that with his familiarity with Millstone, he would have been more efficient than ( )

( ) said he had filed a Freedom of Information request (FOIA) with the NRC and had determined that NU stated they had terminated him because they didn't need someone with ( ) said he disagreed with that reason, as for quite a few months before being laid off, ( ) not been the focus of his work; he had been doing traditional ( ) work. ( ) said his last assignment was working on the ( ) assisting ( ) a supervisor from ( ) who was the lead on that job. The job was basically solved, and there were just a few loose ends remaining when he was laid off.

AGENT'S NOTE: ( ) was asked about his earlier interview with the Task Force, wherein he mentioned he had been talking to Nuclear Safety Concerns personnel a day or two before his layoff regarding the ( )

( ) said he talked to Nuclear Safety Concerns people about ( ) believed, "There was pressure from above that was a little unduly exerted . . ." and added they were "being led to have to, forced to do the ( ) ((Exhibit 6, pp. 12 and 13). When questioned further, ( ) acknowledged he was not forced to do something that was wrong, he just thought there was a better way. However, he and the other couple of ( ) eventually agreed on the way the problem was being solved. ( ) could not recall the name of the Nuclear Safety Concerns person he had spoken to, but when questioned further, ( ) responded, "I didn't talk to him specifically about that" (Exhibit 6, p. 15). ( ) subsequently admitted he had not talked to Nuclear Safety Concerns about this issue.

( ) also said that in September 1995 he had told another employee, ( ) about his concern with the Plant Operational Review Committee (PORC), that the members were always changing and there was not much consistency. ( ) had a Nuclear Safety Concerns person contact and ( ) expressed his concern to that individual. ( ) could not recall that person's name, but within a couple of days that person told ( ) that the issue had been addressed with the unit director, without mentioning ( ) name, and changes were made to keep the same members on the PORC. ( ) said the PORC ran much smoother thereafter.

During this same conversation, the Nuclear Safety Concerns person followed up on an open audit item that ( ) had done about ( ) years earlier at Millstone ( ) had noted a concern about whether certain ( ) required ( ) and no one had responded to that audit item. The Concern person got back to ( ) within a couple of days and provided the information that the ( ) in question was used only as a communication device, and ( ) agreed QA was not necessary and there was no problem. ( ) said these ( ) issues were the only contact he had with Nuclear Safety Concerns.

( ) said he has kept both telephone and E-Mail contact with ( ) and has provided ( ) with "several things" because ( ) has a pipeline to the ( )

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NRC, and he ( ) had seen what happened to ( ) and others. when asked why the ( ) issues in September 1995 had not been given to ( ) but rather to Nuclear Safety Concerns, responded that those issues "were very minor. They were things that were on a scale of one to 10, ones or twos." ( ) said ( ) would not have used his ( ) name on any issue given to NU management (Exhibit 6, pp. 24-28).

( ) said he had agreed with his ( ) appraisals, and that his promotion after ( ) was more of a ( ) than anything else ( ) acknowledged that when the old ( ) was dissolved in ( ) during a reorganization, many of the people were sent from the Berlin office to the plant sites, ( ) was very happy to ( ) as he kept his ( )

AGENT'S NOTE: ( ) was asked by OI why he believed discrimination was involved in his layoff, rather than a legitimate reason.

( ) responded, "Because the official reason that now looks like has been given was the very reason that I was kept ( ) when the organization was, and the fact that I had done so much ( ) and across all the units. Rather than sending me to one specific unit that I could stay in a job where I could be available to work at any one of the units, suddenly when termination time, the official reason is that I am ( ) and not as much on the true ( ) side, even though that's what I've been doing for about the last ( ) and was very effective at it" (Exhibit 6, pp. 31 and 32).

AGENT'S NOTE: ( ) was advised by OI that his coworkers said he was more ( ) and spent too much time ( ) and did not get out and do work like they did.

( ) responded, "I would say yes, that's true. But then that's what I was asked to do." ( ) went on at some length about ( ) not being held in high esteem by ( ) that ( ) was aware that ( ) still communicated with ( ) and that management may have viewed him as a ( ) added, "also looking at the fact that ( ) all original parts of the ( ) that we all got the ax at the same time. Talk about circumstantial evidence" (Exhibit 6, pp. 32-36).

AGENT'S NOTE: ( ) was also advised by OI that he was not the ( ) in the ( ) although he was very close, but the decision was made that doing without his services would have less of an impact on the group's overall mission.

( ) said, "the fact that I was doing less and less of the ( ) at the end and improving, that I could still do the routine ( ) That I could get out from ( ) and be ( ) doing that. ( ) had been pushing me to do as many of these other jobs as I could" (Exhibit 6, p. 40). ( ) was then informed his coworkers had indicated he had been resistant to ( ) did not address this concern, but talked about another employee, ( ) who had ( ) as probably being the one that would have been terminated had he remained with the ( ) (Exhibit 6, pp. 40-42).

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( ) was interviewed on April 4, 1996, by the NRC Task Force (Exhibit 41). He was the ( ) and reported to KUPINSKI. In 1995, ( ) at the request of KUPINSKI, prepared a matrix for the employees in ( ) and submitted it to KUPINSKI; they then discussed the scores. ( ) did not X any employee on his matrix. ( ) said there were later discussions with KUPINSKI and the other supervisors, as to who to terminate, to meet the numerical goal of reducing one person from KUPINSKI's area. ( ) does not believe that KUPINSKI X'd any employee on the original matrix. The choice was between ( ) and ( ) an employee in ( ) and ( ) was selected.

( ) when asked about a matrix rating he gave ( ) on job performance, stated, "I think that the performance review indicates that there were some Q minuses in there, and I was trying to get ( ) to transition from ( ) work. He tended to gravitate towards ( ) It's something that he enjoyed doing. It's something he was good at. But it's something that I couldn't afford to let -- ( ) And so that was something I was working on with ( ) (Exhibit 41, p. 16).

( ) said he had expressed his concern at that time about getting the job done while losing another person from ( ) this after losing ( ) to a ( ) and ( ) which left ( ) including ( ) acknowledged ( ) had been ( ) it "was a concern to me. But from the -- from the corporate perspective, that was the right --" (Exhibit 41, pp. 17-21).

( ) did not know ( ) to have raised any safety concerns. ( ) This was a safety related matter, and ( ) said it may not have been resolved until after ( ) termination. ( ) was aware of ( ) prior association with ( ) specifically that he ( ) had provided ( )

KUPINSKI was interviewed on April 3, 1996, by the NRC Task Force (Exhibit 42), and interviewed a second time on May 8, 1996 (Exhibit 43), by OI. KUPINSKI has been the Manager of Nuclear Engineering Support for about 10 years and he reported to BONACA, until March 1, 1996, when there was a reengineering change. KUPINSKI had his four subordinate supervisors fill out matrices for their employees, after explaining the matrix process and the competencies to them. ( ) rated the ( ) employees left in ( ) after ( ) KUPINSKI told the supervisors, if justified, to recommend termination for any employee, based on their evaluations/performance issues (Exhibit 42, p. 21). KUPINSKI stated that at the time of the matrices, he had ( ) vacancies, including the ( )

To OI, KUPINSKI said that neither his subordinate supervisors, nor he and his three peer managers, recommended any employee for layoff on the matrices they submitted on October 13, 1995 (Exhibit 43, pp. 14 and 15). In October/November 1995, the managers met with BONACA and were informed that some reduction would be necessary in BONACA's department, and the managers were told to identify 6 to 8 individuals, with an equal number coming from

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each group. KUPINSKI said that BONACA, "didn't tell me, but I could guess that came from Eric and the Director's meeting they had next door to us." BONACA told them upper management, KUPINSKI believes BONACA said DEBARBA, was surprised there had been no recommendations from their department. BONACA told KUPINSKI that they had questioned why [redacted] had not been recommended for reduction based on his [redacted] scores (Exhibit 43, pp. 22 and 23).

KUPINSKI asked his supervisors to make a pool of the lowest rated individuals and a list of [redacted] resulted, including [redacted] KUPINSKI stated that BONACA never suggested [redacted] name, rather [redacted] one of KUPINSKI's supervisors, put him [redacted] on the list of [redacted] KUPINSKI met with his peer managers and they jointly discussed each name on everyone's list, to determine which ones would have the least impact on their group if they were terminated (Exhibit 43, pp. 23-29). Eventually, both [redacted] were recommended for termination (Exhibit 43, p. 43).

[redacted] was recommended based on significant performance issues, the responsibilities he carried, and the fact that his loss would be felt the least (Exhibit 42, p. 50). KUPINSKI said there were [redacted] other lower rated employees in the [redacted] but [redacted] termination would have less impact (Exhibit 42, p. 55). KUPINSKI could not recall who told him, but he was told he could not remove a vacancy and needed to remove a person (Exhibit 42, pp. 26 and 27). KUPINSKI never asked why only [redacted] was selected and not [redacted] he assumed it was because of [redacted] situation related to the [redacted] KUPINSKI said he knew that [redacted] had previously worked for [redacted] and some of the other managers may have known that fact. but it was never discussed and was not a factor in deciding to terminate [redacted] employment. KUPINSKI said that [redacted] was also discussed, but there was no mention of any prior relationship with [redacted]. He was selected for layoff because he was not carrying his load (Exhibit 43, pp. 58 and 59).

[redacted] was interviewed on May 8, 1996 (Exhibit 44), by OI and stated that he was a supervisor under KUPINSKI. [redacted] said he had [redacted] employee, [redacted] that he had intended to recommend for layoff, but [redacted] opted for the [redacted] said that [redacted] was the lowest rated in his group, and that he [redacted] did not do the work assigned him, did not keep him [redacted] informed or the work he was involved in, and did not communicate very well. However, [redacted] did not recommend any employee for layoff. [redacted] believed KUPINSKI's quota was to lose [redacted] professional type person, and after discussions between the supervisors and KUPINSKI, [redacted] was selected as the lowest performer. [redacted] had recommended [redacted] because he [redacted] believed [redacted] was not a good performer and was not happy with [redacted] performance. [redacted] said he did not know of any concerns. [redacted] had raised, but did know he used to work for [redacted]. However, during the discussions, no mention was ever made about any association between [redacted].

[redacted] former peers of [redacted] were interviewed on June 5, 1996, by OI; they are (Exhibit 47). These [redacted] were the only other members in the group where [redacted] was a [redacted] said that 2 to 3 weeks before the layoff, [redacted] said he expected to be laid off, as everyone in the group that was available was assigned to the [redacted] for him. All [redacted] employees commented that their job required them to get [redacted].

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out and find their own work, manage their own time, but remained on his  
and had to be supervised a different way. They said was  
trying to but seemed resistant and  
always went. They agreed that did at least  
average work, but he did not diversify. However, they expected that  
would not be let go because had already  
and even though was the lowest in their group, he exhibited better work  
habits than some other employees in KUPINSKI's area.

None of these employees believed that had been the target of any  
discrimination, it was just the way the numbers came out. The employees said  
they had not experienced any discrimination or retaliation for having raised  
safety concerns, and they did not know if had raised any concerns.  
They agreed that and KUPINSKI were honest and fair individuals.

also commented that they were not surprised that was  
laid off, because he was a  
(Exhibit 45, pp. 31-33 and Exhibit 47, pp. 33-35).

### Interview with Allegor

was interviewed by the NRC Task Force on April 10, 1996 (Exhibit 7). He  
stated he had worked for NU for

supervisor since was and his manager was John GUERCI.  
GUERCI was promoted from supervisor to manager in 1994 and

GUERCI prepared performance review (Exhibit 18) and  
prepared the performance review (Exhibit 19). In the review,  
received a low "Q" and did not know if anyone received less than a Q.  
believes his rating was punishment for having

which  
took a great deal of time and work.

discussing the said.

to look at this problem, but " . . . has  
a attitude. He in the very strong position to solve it.  
But I told him I think I should work on these kind of problem because this is  
significant" (Exhibit 7, p. 9).

said the began under GUERCI, and he  
completed his  
and presented it to  
recommendation, so  
At invitation.  
approval of and GUERCI (Exhibit 7, pp. 10-12). with the  
length, the problem and said that by he described, at  
said. and did  
accepted and it showed up in his performance review as a Needs  
Improvement (NI) rating. was not

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to which responded that Further, he was not practical and his work was not sufficient. He said that did not like his way. He told that he could change his style, or could send the as it was to or to for their review. said others did not have a problem (Exhibit 7, pp. 21 and 22). said no solution was ever reached by NU on this problem.

could not explain why did not want to use his or talking about said, "He attitude, not to show people this one, not to talk about this one, and criticize me about doing this kind of work. I get hostile. I get lost and that's why I jump with things." said the NI was not because of rather that, "I think he did not understand probably the content or the philosophy put in added, "I mean, I have done many, many tasks in the same year, in He has no problem with that. But on this one, he just -- seems to me he just found an excuse. But he did - they He said he "it" (Exhibit 7, pp. 28 and 29).

acknowledged that in his review GUERCI cited a need for improved and that there would be in asked him many times to called " but he had already and did not feel there was any reason to (Exhibit 7, pp. 30 and 31).

presented his answer in problem, but " seems to me not very interested in solving that kind of thing." added, "But he's a critic. Then he in his response to my understanding it, the reason I get no credit, he says he possibility when I said it is the potential cause for that. But I get no credit because I didn't listen to him not to do the job" (Exhibit 7, pp. 33 and 34).

said he was unhappy with comments so he made an informal appeal to GUERCI and Mario BONACA, the but he was further criticized, so he filed a grievance. lost the grievance and then lost the appeal of that grievance decision in December 1995 (Exhibit 7, pp. 40-43). said he was laid off on January 11, 1996, but was not given a reason for his termination. said he signed his waiver and received his severance package, and based on the advice of Mr. VITO of the NRC Philadelphia regional office that the waiver was no good, he went to the Department of Labor (Exhibit 7, pp. 52-57).

AGENT'S NOTES: was asked by the NRC Task Force how the company would benefit by not wanting him to work on or if the company would save money by not using

responded, "My should save them money. They just pick up directly and discuss and resolve the problem. That would be straightforward work. It's just I think in my opinion, what I saw is that they just did there whatever plant I'm afraid they just let go.

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was interviewed by OI on June 20, 1996 (Exhibit 8), and he provided more detailed information regarding the in question. The developed in and continued to said told him to fix the problem and he gave his in did not agree with and instructed not to do anymore work on the problem, not even prepare a (Exhibit 8, pp. 7-9).

made of the to NU but the did not say if they agreed with the (Exhibit 8, pp. 7 and 8). also had an opportunity to make a on some after the express whether they agreed or disagreed with his but did not (Exhibit 8, pp. 19-23). said he based on his performance appraisal in because it was based on a rating of a performance on the (Exhibit 8, pp. 28 and 29).

The issue had become known on during a and said he did not advise at the time, about beginning work on this problem, because wanted his people to be aggressive.

AGENT'S NOTE: was not sure of the date when he made the to either or however, he did make on at this meeting.

did make some suggestions to and followed those suggestions. said he also made these to and although they did not express agreement or disagreement with his solutions, believes used his suggestions on the for

said his included (Exhibit 8, p. 64). 1994 performance review included although he was given an overall acceptable rating of Q. told he did not meet his expectations, and was not happy with efforts on the went to GUERCI, and GUERCI "tried to say something comfortable to me," but he agreed with assessment. and GUERCI then met in BONACA's office, and BONACA said he would ask the to come talk with but the never showed up (Exhibit 8, pp. 68-70).

AGENT'S NOTE: was advised by OI that he had expressed that rated him based on his performance on these issues, not for having raised the issues. Further, since the solutions would save NU money, why would management not want those solutions used?

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responded, "From the way he/ )my technical issues to this -- to finding a way to explain the situations. That's why the memo was not issued. And then he said my technical stuff is not good." also questioned the independence of the since )once supervised rejecting his work, ) responded, "I know some -- something that his ulterior motive for technical background is not so strong to judge ) stuff. That I know from him. Second fact would be, he's a He didn't know my style." also commented that possibly him, as he ) had complained about ) also related other types of discrimination related to ) (Exhibit 8, pp. 75 and 76).

AGENT'S NOTE: The information provided by ) was summarized to him, specifically, that ) discriminated against him because he ) work, in that ) did not have the technical skills, and there were ) problems between them.

agreed that was part of the problem, but during the ) said ) had a "decision judgement problem." ) added, "From my talking to him, he said to me that plant has a problem. He doesn't want problems to be seen" (Exhibit 8, p. 83). ) concluded that the matrix process was not fair because ) and GUERCI, the same ones who had given him a ) appraisal and opposed him in the ) were the same ones that did the matrix and rated him.

#### Testimony of ) Peers and Immediate Management Officials

) was interviewed on April 10, 1996 (Exhibit 48), by the NRC Task Force. He has been the supervisor of the ) since ) and reports to GUERCI. At the beginning of the downsizing, there were vacancies in ) due to a ) and ) (for an early retirement. ) at GUERCI's request, reviewed the competencies and then prepared a matrix with the initial scores of the employees in his group. These scores were based on the last two performance reviews.

) said in ) last two performance reviews there was a ) initiated because of: ) identified in ) (Exhibit 48, pp. 29 and 30). ) also talked with ) on several occasions about his ) but ) denied there was a problem and rejected. ) said he did not place a X on his initial matrix next to any employee, but he later put an X next to ) name at the request of GUERCI. ) said ) was the ) ranked member in his group, but the employee who had taken ) would have ranked ) than ) if he ) had. ) (Exhibit 48, p. 17).

) when discussing why ) ranked ) on the matrix, offered that, "A primary example to that would be the ) That was a substantive issue that needed resolution. It was his responsibility to do so as ) assigned to Millstone. ) Clearly a functional responsibility as well as an assigned responsibility. He failed to, in any adequate fashion, to resolve that issue. In fact, he did worse; he ) the issue and attempted to

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provide solutions that didn't resolve the fundamental issue at hand" (Exhibit 48, pp. 25-27).

said the impact of the loss of ( ) was ( ) because of his performance. ( ) said he was aware that ( ) had raised a safety concern related to the ( ) however, ( ) by his own evaluation and memorandum, stated there was no safety concern. The resolution of this issue was in ( ) (Exhibit 48, pp. 23 and 24).

GUERCI was interviewed on April 9, 1996 (Exhibit 49), by the NRC Task Force. In 1995, he was the manager of Nuclear Fuel Engineering and reported to BONACA and had three subordinate supervisors in his area, including ( ). Before downsizing on January 11, 1996, he had 4 vacancies in his area. GUERCI stated that during much of 1995 he had been acting for BONACA, but BONACA did come back for the downsizing effort and attended every meeting where downsizing was discussed.

GUERCI was aware that before beginning the matrix process to rate all employees, BONACA's department had a target reduction of 8 positions; however, due to vacancies and early retirements, the department was down about 14 positions. GUERCI said they were required to do the matrices and decide if any employee should be Xed, and the managers, including himself, handed their matrices into BONACA. "We had no employees X'd on the 13th which is when the documents were signed and handed in. So the four managers at that point chose not to X any employees based on the numbers we were at and partly in consideration of clearly if we had a goal of 7 or 8 we had met those numbers already and so the four met with Mario prior to handing in the matrices to Eric and we said we'd go over our numbers and we did not put an X next to any employee's name" (Exhibit 49, pp. 18 and 19). GUERCI said these matrices did not have any Xes; the managers signed them; and they were collected on Friday, October 13, 1995, by Jeb DELOACH, Staff Assistant, who was collecting them for DEBARBA.

BONACA called GUERCI late in the day on October 13, 1995, and said DEBARBA wanted them to consider some cuts. ". . . so names were given to me from Mario from my department as to what individuals should be considered. They were individuals with the lowest scores in the department." were the names from GUERCI's department, and "there were six names that Mario said Eric had suggested," but GUERCI was not sure of the names of the other individuals in the other departments (Exhibit 49, p. 26).

GUERCI and BONACA attended a meeting on Monday, October 16, 1995, with DEBARBA and the other Engineering directors and discussed the employees that would be Xed. GUERCI did not recall if they discussed why do cuts if they had already met their reduction goals. It was his understanding that DEBARBA ". . . wanted to terminate low performing employees throughout his department." GUERCI added, "regardless of the fact that we had openings, there were some number, there was a number of low performance employees that Eric wanted to terminate" (Exhibit 49, p. 28).

GUERCI and BONACA met with the other three managers (KUPINSKI, DUBE, and Dick SCHMIDT) on Wednesday, October 18, 1995, and they agreed on five names they would give DEBARBA to be cut and three additional possibilities depending on what number DEBARBA wanted. The five were,

who were the lowest in each of their groups, but not the lowest

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among all 120 employees under BONACA. The other three possibilities included but GUERCI could not recall the other two (Exhibit 49, pp. 30 and 31).

These eight names were presented to DEBARBA at a meeting on Friday, October 20, 1995, and of the five recommended for termination only four were Xed. [redacted] was removed from the list, but no one told GUERCI why [redacted] had been removed. The other three possibilities were not Xed (Exhibit 49, pp. 33-35). GUERCI said he later talked to NU legal about [redacted] however, GUERCI did not provide any additional information on this issue because counsel asserted attorney-client privilege. GUERCI was aware that [redacted] had raised a safety related concern, the [redacted] through [redacted] in [redacted] GUERCI said he was not aware of any relationship between [redacted] with [redacted] (Exhibit 49, p. 36).

[redacted] former peers of [redacted] were interviewed on June 5, 1996, by OI; they are [redacted]

[redacted] are [redacted] is an [redacted] has been [redacted] supervisor and GUERCI their second [redacted] line manager since [redacted] and before that GUERCI [redacted] The employees said that both [redacted] and GUERCI were skilled and very technically competent and had never discriminated or retaliated against them for any reason. In describing the duties of their group, the employees noted that they do raise safety concerns and have been encouraged and supported in raising these concerns by both [redacted] and GUERCI.

[redacted] said [redacted] was the only one to believe he was discriminated against for raising a concern. [redacted] had told [redacted] that he had been laid off for raising safety concerns. [redacted] "had mentioned to me that he had only tried to help, and he felt that he was being laid off because he was trying to help, and they didn't want to listen to him" (Exhibit 50, pp. 23 and 26). [redacted] did not know if [redacted] had raised any concerns, but was aware that about a year earlier [redacted] was upset with [redacted] was not sure why [redacted] was upset, only that it had something to do with what was [redacted] and what was not [redacted] and that it involved a [redacted] (Exhibit 51, pp. 26 and 27). [redacted] said he was aware there was some problem between [redacted] regarding a [redacted] told [redacted] a few months before the layoffs, that he and [redacted] were in disagreement over the [redacted] regarding some of [redacted] was aware that [redacted] had [redacted] but did not know if he was terminated for that reason (Exhibit 52, p. 34). [redacted] and [redacted] were not aware of any [redacted] but they were aware that there was the problem between [redacted]

The employees said their group got along pretty well, but there were comments about [redacted] that he was difficult [redacted] said he did not have as much of a problem, as [redacted]

[redacted] years and could [redacted] just could not [redacted] The employees stated that [redacted] seemed to have an excellent work ethic, very thorough and meticulous, but they questioned whether he really produced much work.

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## NRC Staff Assessment of Issues

As part of the forthcoming NRC Inspection Report, an NRC draft feeder report addressing issues was prepared by James TRAPP, NRC, Region I, Division of Reactor Safety, Senior Reactor Analyst. This feeder report and a summary of the feeder report are discussed in detail in the Documentation Review section (Item 12) of this report.

### Testimony Regarding Layoff

SCHMIDT, manager of the Radiological Assessment Branch, was interviewed by OI on May 8, 1996 (Exhibit 53), and stated that he did not place an X next to any employees name on the first matrices he prepared. SCHMIDT said the managers met, and none of them wanted "to jump too fast," because they were trying to understand the expectations of upper management. There were 3 or 4 meetings between the managers and BONACA, and eventually they knew BONACA's department had to reduce between 7 to 9 people, but it was unclear if the early retirements could be subtracted from the reduction number (Exhibit 53, pp. 25-31).

SCHMIDT said during the first meeting he told BONACA and the other managers that one of his employees, was not pulling load and he could propose for layoff. BONACA said not to put down any Xes as he wanted to go to the first meeting at the next level with no Xes. but at a later meeting, other names were "tossed around," including (Exhibit 53, pp. 36-41)

SCHMIDT eventually Xed because was a performer, but he would have preferred to keep because his department was thin. SCHMIDT said there was a request, which was conveyed to him by BONACA and GUERCI, that higher management was looking for cuts, so in his [SCHMIDT] third iteration, he recommended for layoff (Exhibit 53, pp. 44-50) In the discussions of any relationship they had with was not discussed at any of the meetings.

was interviewed on May 8, 1996 (Exhibit 54), by OI, and he confirmed performance; however, he never recommended or any other employee for layoff. was immediate supervisor for several years prior to opting for the

was interviewed on June 4, 1996 (Exhibit 55), by OI. stated that had never raised any safety concerns. said that, if there was any type of discrimination in layoff, it was because SCHMIDT did not seem to therefore, it was a

### Testimony of Senior NU Management Officials

#### Interview of Mario BONACA (Exhibit 56)

BONACA was interviewed on May 8, 1996, by OI and stated that he was the Director, Nuclear Engineering Services Department, from 1991 until March 31, 1996, and reported directly to DEBARBA. From February 1995 through February 1996, BONACA was on special assignment to Reengineering and GUERCI was the

department's acting director. However, BONACA said he did return and participated in the downsizing during 1995.

BONACA stated that the reengineering assignment was to restructure the organization, which would have resulted in the loss of some positions, "in the long term, yes; not in the short term." He said there would be transition steps that would take a minimum of a couple of years, but with Millstone going on the watch list it would take a longer time (Exhibit 56, pp. 18-20).

BONACA stated that occasional downsizing is good because it will remove five to ten percent of the lower performers in an organization, but should be done only every few years. BONACA believed this was a better method than laying off one employee at a time due to poor performance, as that method would more negatively affect the remaining employees than would a downsizing. BONACA said the method used at NU could achieve both purposes, to remove poor performers and to reduce the number of employees (Exhibit 56, pp. 21-28).

AGENT'S NOTE: BONACA was asked if the reengineering was not completed, i.e., assessing how to improve the process, and 250 employees were let go; how did NU know the job could be done safely?

BONACA responded, "Absolutely, you and I think you would be absolutely right. I'm not telling you that I fundamentally agree or disagree with you. I mean, there are a lot of perspectives about that, okay, and you know, I did, in fact, feel that I didn't cross any one of the people off my list because I felt that especially given the retirements I had in my area and due to the fact were down in PVR, we really didn't need to layoff anyone" (Exhibit 56, p. 32). BONACA added that others had different perspectives about including these five percent who don't produce, so there was nothing wrong with starting the process.

BONACA said it was his opinion that the January 1996 layoff should not have occurred, as things were not going well in the nuclear program and a layoff would bring all sorts of questions. However, he also said the layoffs are not hurting the organization. Later in the interview, BONACA opined that the arrogance of management to pursue the downsizing at that time showed they did not really recognize the difficulties and the fact that the downsizing should have been postponed. BONACA said he had expressed to upper management that his area should not have had a layoff because they had met the target reduction goals through early retirements, and his department was strained and did not need to cutback any further (Exhibit 56, p. 37). BONACA said it was not discussed whether budgeted vacancies could be used to meet the targeted reductions. BONACA later added that he had never been aware that backfilling would be allowed for any positions.

BONACA said his department did not put any Xes on their initial matrices in 1995. BONACA said his only change was to [redacted] in order to protect [redacted]. After the matrices had been sent to DEBARBA through DELOACH, DEBARBA telephoned and said, "I've got a problem, however, with the [redacted] because it seems very high."

[redacted] and DEBARBA added, "You remember the instructions. We all got training that we should not have any considerations on these ratings based on any issue that has nothing to do with the work activity" (Exhibit 56,

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pp. 51 and 52). BONACA agreed and had KUPINSKI change the score back to where KUPINSKI had originally rated. BONACA said he then went to Lillian CUOCO, NU Legal Department, about his concern, and CUOCO said they would take it into consideration during their review.

BONACA received a second phone call from DEBARBA after the matrices had been submitted without any Xes, and was told "they" had identified seven or eight names for layoff from the bottom of the matrices on all four branches of his [BONACA's] department. The names were under SCHMIDT; under DUBE; under GUERCI; under KUPINSKI. BONACA said he told DEBARBA that he would talk to his managers, but eight more cuts were far too many; that it was unacceptable (Exhibit 56, pp. 58-65).

BONACA talked to his managers and SCHMIDT said it was okay to X because of DUBE said it was okay to X GUERCI said it was okay to X and KUPINSKI said it was okay to X. These managers offered BONACA reasons to retain the other named employees.

BONACA said only [ ] was discussed for sensitivities. He [BONACA] did not know until after the layoff, when he read the newspaper, that had any connection to [ ] because he had received [ ] had

[ ] were well known and they were resolved. BONACA said [ ] never raised any safety issues, adding that he [ ] "could not believe that anybody could think that the work he did wasn't top notch. He just couldn't believe it" (Exhibit 56, p. 127) BONACA said he knew [ ] to be one of the [ ] in the [ ]

BONACA said his managers had expressed concern about doing their work if eight more people were lost, that on top of the eight early retirements. BONACA shared this concern with DEBARBA, and said that he [DEBARBA] was pretty flexible, and that DEBARBA said he was just trying to get to the numbers given him. BONACA said DEBARBA never pushed these names as "fait accompli" (Exhibit 56, pp. 73-75). Eventually, DEBARBA stated that only four more names would be taken and reading from the matrices, they were [ ] BONACA said he told DEBARBA he would check with his managers to insure these were the four lowest, and the managers later agreed to the ratings.

AGENT'S NOTE: BONACA was asked the purpose of this downsizing if the positions had not yet been reconfigured and the changes in duties were not known by the managers and supervisors; only that they knew they were going to have to do the same work with less people. Did NU pursue this downsizing to rid themselves of poor performers, or for other reasons?

BONACA responded that he did not recommend any Xes from his department. However, he thought it was a downsizing and there was, "some arrogance on the part of the top [management], that they did not understand what was going on and understood that we could march into reengineering and this was the first step of downsizing. Really, I am convinced of that." BONACA opined it was probably Robert BUSCH, President of Energy Resources Group, who was "very,

very involved with the reengineering, very strong feelings about it, and I think in many ways because of good intentions, but I think that, you know, he's very strong and at times he doesn't listen" (Exhibit 56, pp. 124 and 125).

BONACA added, "and I never felt undue pressure from Eric to give him a name, never, or anybody else. However, I must say that what I said here under oath, it's true that I -- the numbers changed as we were going through. Okay. Originally we had a target and were told more names, and then it was reduced, and then these four were given." When asked about the names DEBARBA provided over the phone, BONACA responded, "Yeah, and then of course, the question came from him to verify that they were the lowest on the matrix, which implies that if they were not, we could have changed the names" (Exhibit 56, pp. 129 and 130).

#### Interview of Jeb DELOACH (Exhibit 57)

DELOACH was interviewed on May 8, 1996, by OI and stated he was the NU Executive Assistant, Nuclear, and reported directly to Ted FEIGENBAUM, Executive Vice President - Nuclear. In April 1995, DELOACH was put on a temporary assignment for 8 months working for DEBARBA, and part of that assignment was addressing the engineering portion of the NU strategic business plan for 1996 through 2000. DELOACH said DEBARBA asked him to be his representative to the work force reduction task team that was formed in the summer of 1995, which developed the matrix process used in the work force reduction. The matrix resulted in the use of ten competencies, five that had been used in the 1993 NU non nuclear work force reduction, and five competencies developed by the task force that were pertinent to the nuclear side of NU.

DELOACH said the business plan called for a reduction in costs, including a reduction in the work force, for a five year period. A decision was made and approved by John OPEKA, then the Executive Vice President - Nuclear, that the reductions for 1996 and 1997 would be combined and done in January 1996. The reductions for Engineering for these combined two years was 35. The directors in Engineering felt comfortable with a target of 35, as this number could be achieved, "without having any impact on their business, on the ability to do the work safely and effectively" (Exhibit 57, p. 24). DELOACH said the target number and the issue of safety had been resolved by the directors and had been incorporated into the business plan before the matrix process had been developed.

DELOACH said the directors, with input from their managers and supervisors, prepared the matrices ranking the employees. The directors then met with DEBARBA and discussed the scores. "So there was a good check and balance that was done by Eric DeBarba on that" (Exhibit 57, p. 32). According to DELOACH, this review was to even out the hard versus easy scorers, and there were two or three meetings to discuss these scores.

DELOACH did not offer an answer when asked if the target number (35) could have been met by early retirements and vacancies, but said he knew there had to be some reductions. DELOACH added, "Because I don't think people got to that level of detail in the review. It really wasn't necessary. If you know macroscopically, you could look at the staffing you had versus industry staffing and know you were high." He said the matrix developed competencies,

"... so that if you had to reduce the number of people, that it was the least performing, valuable employees that were reduced and not your best performing and valuable employees, okay" (Exhibit 57, pp. 41 and 42). DELOACH added that the business plan identified the target numbers, and the work force reduction process was to identify the least valuable employees.

DELOACH said BUSCH would be the right person to ask if a work force reduction would have taken place if the targeted reductions had been met by early retirements. When questioned if the targeted number had been met by early retirements, would that not be contrary to developing the matrix to identify the poor performers, DELOACH responded, "... virtually, you know, the whole organization was rated pretty good, I mean, Q or better. Okay? This is an issue not to say that you have bad employees. This is an issue to say that to be competitive in the business environment, you have to be more efficient, and you want to reduce staffing" (Exhibit 57, p. 48).

DELOACH said he collected the matrices for DEBARBA on October 13, 1995, from the directors, and all the matrices had some Xes on them, except for BONACA, who submitted his matrices in a sealed envelope. DELOACH said DEBARBA and BONACA had apparently talked before the matrices were collected, because DEBARBA asked if BONACA had submitted any Xes because he [DEBARBA] thought BONACA had told him [DEBARBA] there were no Xes. DELOACH said DEBARBA "went back and looked at the list, and my understanding is -- I'm not sure if he looked at the names or anything, but he told, as I recall, six -- he identified six staff, six people to be reduced in Mario's organization" (Exhibit 57, p. 69). DELOACH did not know if names were identified, but the number 6 was identified. DELOACH did not know if BONACA had any vacancies and did not know if DEBARBA instructed BONACA on how he should come up with the reductions.

DELOACH said he did not believe the directors knew how many people they had to reduce when the matrices were first passed out, only that Engineering had to reduce 35 positions total. DELOACH said BONACA did not have a target reduction, until he submitted zero, "And then that's when I understood Eric to have a discussion with Mario and to come up with the number of six is a fair number" (Exhibit 57, p. 79).

DELOACH said ( ) name was discussed at the director's meeting with DEBARBA as to whether ( ) should be put on the list. DELOACH said BONACA did not bring ( ) name up, one of the other directors brought up ( ) name, but he ( ) had not been Xed when the matrix came forward. DEBARBA said he did not believe ( ) name should be on that list, that ( ) "had brought safety concerns up, and it would be highly inappropriate and wrong to have him on the list. So he was not, but he was originally identified at that meeting on the 17th -- 16th" (Exhibit 57, pp. 86 and 87).

DELOACH said there was a lot of discussion with Personnel about backfilling, replacing a position where it had been reduced during downsizing, but there was quite an effort to insure backfilling was not done. Vacancies were not supposed to be filled; however, DELOACH later stated that backfilling could be used only in certain circumstances where a skill was depleted due to early retirements. DELOACH could not recall any discussion at the meeting between the directors and DEBARBA, or at any other meeting, about any of the employees proposed for layoff having any relationship to

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Interviews of Eric DEBARBA (Exhibits 58 and 59)

DEBARBA was interviewed on April 4, 1996, by the NRC Task Force (Exhibit 58) and interviewed again on July 9, 1996, by OI (Exhibit 59). DEBARBA was the Vice President of Engineering from 1990 until January 1996, when he became Vice President of Technical Services. DEBARBA, as Vice President of Engineering, reported directly to OPEKA. DEBARBA said he was responsible for the Engineering portion of the downsizing, where the strategic business plan targeted a reduction of 90 employees between 1996 and 2000, including 35 employees for 1996 and 1997.

DEBARBA reviewed a list of 20 to 30 employees recommended for layoff who had engaged in activity in the past that had sensitivities, a list that included [redacted] DEBARBA had been on a grievance panel to review [redacted] which was based on a [redacted] [redacted] had previously worked for, or in close proximity with [redacted] for fairly long periods of time, and DEBARBA was concerned they might have real sensitivities. DEBARBA said he, "was not aware of them having raised any concerns or having done anything in any way, but I was concerned that just having been from that environment there may be some sensitivities there" (Exhibit 58, p. 50). DEBARBA said that, other than identifying the sensitivities, he did not do anything when reviewing the matrices that came to him with these three employees [redacted] Xed to assure himself there wasn't anything wrong regarding these individuals.

AGENT'S NOTE: Counsel for NU invoked attorney client privilege and would not allow DEBARBA to discuss the information he provided to the added assurance review.

To the Task Force, DEBARBA said he was aware that [redacted] had originally been Xed on an earlier matrix, and he asked that it be reviewed because the concerns [redacted] had raised were well known in the organization. DEBARBA said he did not have any discussions as to what criteria should be applied to the overall numbers, the ranking of employees who should get an X, and those who should not get an X. DEBARBA added, "I don't recall any specific discussions that would say, you know, who to give an X to and who not to give an X to, you know" (Exhibit 58, p. 44). DEBARBA said the those people with the low scores in a group were candidates for an X.

DEBARBA said in October 1995 there was an intended replacement criteria, that there was a 10 percent for the early retirees and 25 percent for those employees being Xed. This was later changed because to "bring people in doesn't help us get where we need to be, and so what we really wanted to do was we didn't want to refill at all" (Exhibit 58, pp. 47 and 48).

DEBARBA believed there was only one review of the matrices his subordinates had sent to him. When asked by the Task Force if he [DEBARBA] had requested KUPINSKI to make a selection after KUPINSKI had submitted a matrix without anyone Xed, DEBARBA responded, "I don't recall Mr. KUPINSKI specifically, but I'm sure throughout the discussion there were references to the fact that we needed to meet our business case, and that we expected everybody to participate in helping make that happen, and reinforcing the importance of doing that. So I had those discussions with people." DEBARBA added, "I didn't tell somebody to put an X next to somebody's name, no" (Exhibit 58, pp. 59 and 60). DEBARBA acknowledged that Engineering had a target of 35

reductions, of which they eventually had about 20 early retirements and 30 people were Xed, for a total of 50 or 51.

During the OI interview, DEBARBA confirmed many of the same statements he had made during his initial interview. He said he was in charge of the Engineering committee, and his five directors, including BONACA, were on that committee, and they provided the target employee reduction goals, which were 90 for the five years and 35 for the first two years. DEBARBA acknowledged the reengineering effort, of which BONACA was assigned to in 1995, was only completed to a degree. He commented, "The original reengineering team completed its task earlier this year and as a result, we ended up revising our organization in January, end of January, beginning of February of this year, but there are still ongoing things relative to reengineering" (Exhibit 59, p. 15).

DEBARBA said he assigned DELOACH to act in his behalf on the task force that developed the matrix process, and he [DEBARBA] and the other officers eventually approved the process. This matrix process was designed so that the low performing employees would be the ones laid off in a downsizing. DEBARBA said the goal of reducing 250 employees NU wide could not be met through early retirements alone, as there were not that many eligible. It was also DEBARBA's understanding that unfilled budgeted positions could not be used to meet the target reduction goals. DEBARBA, when asked again about the unfilled budgeted positions, responded, "We had done an evaluation of the organization and we are looking at people who were not contributing much to the overall performance of the organization. And that those are not the people who are going to carry us to where we ultimately need to be" (Exhibit 59, p. 27). DEBARBA said their business objective was to reduce 250 people and in using the matrix process, "You are removing those people who are less valuable in your organization. But you're not doing that for that reason. You're doing that because you have a business imperative. If you did not have the business imperative you wouldn't be doing that" (Exhibit 59, p. 34).

DEBARBA identified the memorandum from R. M. KACICH to Nuclear EVP, Direct Reports and Unit Directors, dated June 29, 1995 (Exhibit 28), which reflected the targeted reductions per the strategic plan. The Engineering reductions were 90 positions for 5 years, and 35 positions for the first 2 years, 1996 and 1997. DEBARBA said the backfilling issue was discontinued late in the process, November/December 1995, because someone in the company concluded that backfilling was not a good process (Exhibit 59, pp. 39 and 40). DEBARBA said he had never really thought about the rationale for having backfilling on terminations, but "you might find an area that ended up having more reductions than they could match their work." DEBARBA did not recall any discussion about a "clear rationale for it" (Exhibit 59, pp. 43-45).

DEBARBA was not sure who's decision it was to destroy the matrices where no employee was Xed for layoff, as only the matrices with an X on them were maintained for the files. DEBARBA acknowledged that the task force, that set up the system that included the destruction of matrix records, was working for him and the other officers, so he is sure that somewhere he concurred with the destruction of these matrices that did not have any employee Xed. DEBARBA, when asked why destroy the records, responded, "I assume it was we just don't want to have extraneous material left around" (Exhibit 59, p. 51).

AGENT'S NOTE: DEBARBA was informed that KUPINSKI stated he had  
however, those matrices were destroyed. DEBARBA was specifically asked  
why was laid off.

DEBARBA stated, "I don't know that to be the fact that there were  
did not know if had a DEBARBA said he  
training program told the managers they "ultimately come up with a judgement  
as to where the contribution was less from the people, so the people had to  
make a value laden judgement as to who in the organization was contributing  
less. Now in that case, Mr. Kupinski made the judgement that was  
not making the contribution" (Exhibit 59, pp. 53 and 54).

DEBARBA acknowledged to OI that the matrices submitted from BONACA's  
department did not have any Xes. DEBARBA said he had a conversation with  
GUERCI and/or BONACA and "they were having some difficulty in the scoring  
system that was being used," later adding that KUPINSKI had been more generous  
in the scoring. DEBARBA said, "they were a little bit unsure as to given all  
of them, what would be the next step in how the Xes would be applied. So I  
think that was the reason, as I understood it, why they had not placed any Xes  
on individual categories" (Exhibit 59, p. 55). DEBARBA acknowledged he did  
not recall BONACA or GUERCI expressing a desire to X any employee, nor did he  
recall BONACA stating he [BONACA] could not afford to X any employee,  
particularly after having a goal of 7 reductions and they already had 8 early  
retirements.

DEBARBA, when asked by OI if he directed BONACA and/or GUERCI to X any  
employees, responded, "I said that to all of the directors that my expectation  
is that everybody participated in this process and that I didn't see any one  
group of being, having so many star players that they would not contribute in  
any way towards the overall result that we were looking at in positioning  
ourselves in the future" (Exhibit 59, p. 56). When BONACA's matrices came in  
with out any Xes, DEBARBA said he expressed to them an expectation that there  
would be reductions in each of the four groups under BONACA. However, DEBARBA  
said he did not recall instructing BONACA and/or GUERCI to X any certain  
number, nor did he mention any employee by name to be Xed. DEBARBA said that  
it did not "sound plausible that I provided names because I don't know a lot  
of the people so it would be hard for me to imagine that I even attempted to  
do that" (Exhibit 59, p. 59).

AGENT'S NOTE: DEBARBA stated that the scores on were discussed  
with either just BONACA, or all of the other directors. DEBARBA was  
asked to comment on the fact he told the NRC Task Force that an earlier  
matrix had come in with Xed, but now acknowledges that BONACA's  
initial matrices did not have an X on them.

DEBARBA said, "I think that they went back after having some guidance on the  
process and the expectation is yeah, there certainly are some opportunities to  
have Xes in the Nuclear Engineering Department and the expectation is that all  
groups look very hard at their group to see whether or not they can be  
productive without certain people in their groups and then come back with some  
and they came back with identified Xes. That's my recollection" (Exhibit 59,  
p. 63). DEBARBA acknowledged that he asked that be reviewed and

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ultimately the X was removed before the matrices and list of Xed employees went forward.

AGENT'S NOTE: DEBARBA was advised that OPEKA had earlier told the NRC that [redacted] name was still on the X list when he received it. DEBARBA was asked to explain how [redacted] name was still there if it had been removed at his level.

DEBARBA said, "I think there were discussions of all the people who were on the initial matrix list before it had gone for review." DEBARBA when pressed as to why OPEKA would review [redacted] name if he was not recommended for layoff, stated, "I think there were discussions that were in process discussions" (Exhibit 59, p. 63).

DEBARBA said he did not know that the managers in BONACA's department, except in the case of [redacted] did not want to give up anyone else after the early retirements (8) and the existing budgeted vacancies (8). DEBARBA said his expectation was they would tell him if they felt they could not meet their work objectives and he never heard that. DEBARBA later added, "I guess I'd go back to the bottom line. The bottom line is people signed the forms. They put Xes on the forms. If they didn't believe that was the right thing to do they should not have done that" (Exhibit 59, p. 69).

AGENT'S NOTE: These matrices had been signed and sent to DEBARBA with no Xes. It was his intervention that sent the matrices back to BONACA's department where Xes were added.

DEBARBA admitted that backfills (25 percent) were part of his decision when the matrices were submitted on October 13, 1995, stating he had "an advantage over some of the people of having a more strategic look at where we were going with Engineering, particularly with Nuclear Engineering" (Exhibit 59, p. 67) DEBARBA later added, "so I'm just saying that strategically, there were some opportunities to have much larger reductions than a one person there, two persons there" (Exhibit 59, p. 68). DEBARBA admitted that Engineering had recommended 62 employees to be Xed, but when backfilling was canceled, he removed 10 names from the layoff list.

DEBARBA said he recalled [redacted] from the [redacted] and was struck by [redacted] which reflected some [redacted] DEBARBA recalled that management had fairly evaluated [redacted] and it was more a problem [redacted] had spent long periods of time, "without really [redacted]"

DEBARBA has known [redacted] for [redacted] years, he was removed from his supervisor's job due to a reorganization and his position was eliminated. DEBARBA said [redacted] didn't do "real well" as a supervisor. [redacted] was viewed as too casual for the job, was not highly viewed by management and plant operations people, and was not good at meeting commitments. [redacted] was [redacted] and DEBARBA talked to him and the other 15 people whose positions were eliminated, and told [redacted] to work hard, start anew, and probably told him [redacted] he would be considered for a management position. However, DEBARBA acknowledged

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that new positions "emerged" during this 1993 reorganization, but "was not viewed as one of the top candidates for one of the new positions" (Exhibit 59, p. 79). DEBARBA did recall that worked in but did not believe that either were very involved in concerns.

DEBARBA said he concurred with all the terminations in Engineering by his signing of the matrices. DEBARBA believes that BONACA's department will be further reduced in certain areas. DEBARBA said the newspaper articles that note that were possibly targeted for layoff due to their former association with were not factual. DEBARBA also did not know if this downsizing has caused any further chilling effect, to that already reported in the January 1996 employee concerns assessment report.

AGENT'S NOTE: The NU work force reduction feedback, dated January 29, 1996 (Exhibit 32), was an internal NU memorandum that was critical of the downsizing and the way in which it was conducted. This assessment noted that after the downsizing the "Popular perception is that 'yes men' are the valuable employees and that raising of technically sound positions but unpopular ones may not be viewed as valuable." This assessment was prepared by DELOACH, who was working directly for DEBARBA at the time the report was written.

#### Interview of John OPEKA (Exhibit 60)

OPEKA was interviewed on June 20, 1996, by OI, and stated he had been in charge of all nuclear operations at NU from 1985 until his retirement on December 1, 1995, at which time his position was Executive Vice President - Nuclear. OPEKA was the chairman of the committee that developed the downsizing process and there were about a dozen members of this committee, including DEBARBA. The personnel reduction targets were achieved through 17 functional committees, including one headed by DEBARBA in Engineering. These committees went down through the manager level, and they looked at industry practices and their own processes to arrive at the numbers to reduce. The purpose of the downsizing was to reduce costs and operate the plant safely, and to be more competitive.

OPEKA stated that the reductions were to be realized by not filling some of the budgeted positions, utilizing early retirements, and by the termination of some employees. OPEKA said he took advantage of the early retirement package.

AGENT'S NOTE: OPEKA was advised that BONACA's department had 8 early retirements and 8 unfilled budgeted positions and were scheduled for only 7 reductions. He and was asked why they had to do the matrix process.

OPEKA said the reduction targets were guidelines, and since it was going to be necessary to terminate some employees, as there were not enough early retirements, NU wanted to focus on the least valued employees, independent of department, so they would reduce those people as necessary. OPEKA, when asked if part of the downsizing was to get rid of the lower performing employees, responded, "Not also. That was the main emphasis" (Exhibit 60, p. 21).

AGENT'S NOTE: OPEKA was asked if it was possible that a good performing employee in the past might not be a good performing employee in the future.

OPEKA responded that it depended on whether they were receptive to change, flexible, diverse, one that would switch jobs every couple of years. When asked how a good performing employee for several years could not be accepting of change, OPEKA stated, "We know our employees. We know whether people are receptive to change or not" (Exhibit 60, p. 22).

OPEKA said, in their process, before he retired, they focused on low value employees and backfilling, adding "There are people out in the industry that I'm sure we could find that had higher value than the people that we had internally" (Exhibit 60, p. 28). OPEKA said there was a limit to backfilling, 10 percent for early retirements and 25 percent on employee terminations.

AGENT'S NOTE: OPEKA was also asked if the intent to backfill was also NU saying they wanted to remove more than they needed to because they wanted to get good value employees for the future.

OPEKA responded, "Well if there's people in the organization that are providing marginal value to the organization, and there are others out there that can provide greater value at the same cost, then that's why the 25 percent was in there, to allow that to occur" (Exhibit 60, p. 68). OPEKA added that the refills were also to insure the work and duties would get done and would insure safety.

OPEKA said there was a list of employees who had raised concerns that were recommended for layoff, and NU wanted to do another review on them. OPEKA said the only name he was concerned with was [redacted] and he [OPEKA] commented, at the time, we really need to do a good review on this one and make sure the recommendation is valid. OPEKA said he did not mention or discuss any other names on this list with DEBARBA.

OPEKA said he did not know that all matrices where no one was laid off were destroyed, and only the matrices showing laid off personnel retained. OPEKA said he did not know if [redacted] had any relationship with [redacted]. OPEKA was also not aware if [redacted] had ever raised any safety concerns.

#### Interview of Robert BUSCH (Exhibit 61)

BUSCH was interviewed on July 9, 1996, by OI, and stated he became the President of NU Energy Resources Group in January 1994, and at the same time was the Chief Financial Officer (CFO), but he had given the CFO position up in about January 1996. BUSCH said OPEKA reported to him, and upon OPEKA's retirement in December 1995, he assumed OPEKA's title for a few months until FEIGENBAUM officially assumed that position.

BUSCH said he was involved in the strategic planning process, where NU was trying to incorporate the results of a reengineering effort to change the organization to behave as a five unit operation, rather than three separate and distinct sites. This process included the reduction of about 250 employees over a several year period, through both early retirements and involuntary severance. BUSCH said he did not participate in the mechanics of how all this was going to take place.

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BUSCH was asked if it had been discussed about eliminating unfilled budgeted positions in lieu of eliminating employees, and BUSCH responded, ". . . PVRs tended to be a very secondary issue." BUSCH added, "What matters is what actually are you going to spend in 1996 and what does that do to your going forward costs" (Exhibit 61, p. 13).

BUSCH was asked if the backfill plan at NU, hire behind those being laid off, was a downsizing. BUSCH responded it was recognized that people make mistakes, and "if you terminated too many people in a particular area you could have an operational problem, but as time went on and people worked through the way this all has to be done within the laws and regulations and everything else, I think the requirement ultimately was you could not do that. It's not legal to have people who are downsized even 1 to 10, replaced in the same areas. So the rules changed as the task force worked on how to do things" (Exhibit 61, p. 16). BUSCH said he did not know the background on how, or who made the decision to cancel the backfilling.

AGENT'S NOTE: A long discussion ensued on whether there were two reasons for downsizing, first to eliminate some positions, and secondly to remove people based on performance reasons.

BUSCH said they were relying on NU's experts from Human Resources (HR) and the legal department, and when the rules changed (that there would be no backfilling), management complied with those changes. BUSCH said if anyone in NU management intended to remove people for performance reasons, with the intent to fill in behind them, then they were wrong, as they (the managers) did not understand the program (Exhibit 61, pp. 21-24).

BUSCH said those that went beyond their reduction goals did so because, "I believe had to do with the fact that they knew we had a gap in the glide path, that we had a long way to go before we could get there and the 250 didn't look like it would be nearly enough. Secondly, people did not want to have to go through this again because it's such an awful process, so they were trying to take advantage of this point in time to get further down the glide path, get closer to the long range goal as long as they thought they could still operate their department properly and the way they selected people to do this was this process that was provided to them" (Exhibit 61, p. 27).

BUSCH was asked why DEBARBA removed 10 employees from his layoff list after backfilling was canceled. He responded by discussing the process, the flexibility in recommendations, and a desire to go beyond the reduction goals to ". . . get further down the glide path" (Exhibit 27). BUSCH said there was no unethical motivation, the managers were just operating within the rules they had been provided.

AGENT'S NOTE: BUSCH never explained the rationale for the incremental 10 employees ever being on the list in the first place, or the other employees on the list that were removed by other vice presidents at NU once backfilling was canceled.

BUSCH recognized the KACICH memorandum of June 29, 1995 (Exhibit 28), which reflected the target reduction goals, including 35 for Engineering and 7 for BONACA's department for 1996 and 1997. When asked again why people taken off the layoff list after backfilling was canceled were ever put on the list, BUSCH stated it was a process managers followed and the rules changed. BUSCH

noted KACICH's memorandum was dated in June and offered that, "The reduction took place in January 1996. People got smarter over that period of time. Everyone knew that there was a lot of pressure to try to get further down the glide path" (Exhibit 61, p. 39). BUSCH stated he would have done exactly as these managers had done.

AGENT'S NOTE: The layoff list was done in October 1995, consequently there was not as much time (i.e., June to January) to get smarter. Additionally, these reduction numbers had been compiled by the managers and directors and there was no testimony that they met again to revise the reduction numbers. BUSCH also never explained why the people removed from the layoff list after backfilling was canceled were ever put on the list.

BUSCH said that Tim MARTIN, NRC Region I Administrator, wanted to insure no employees were targeted for layoff because they had raised safety concerns. BUSCH said he wrote a memorandum stating he would stop the entire process if anyone found anything wrong with the process. BUSCH said he added one more assurance review to make sure no individual was targeted.

AGENT'S NOTE: There was a request made during BUSCH's OI interview to obtain whatever added assurance records were available, particularly records pertaining to [redacted] This request was later rejected by NU. *7c*

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Investigation Status Report, dated May 1, 1996.
2	Transcript of Interview with _____ dated March 22, 1996.
3	Transcript of Interview with _____ dated July 8, 1996.
4	Memorandum of Telephone Conversation with _____ dated July 12, 1996.
5	Transcript of Interview with _____ dated March 21, 1996.
6	Transcript of Interview with _____ dated June 20, 1996.
7	Transcript of Interview of with _____ dated April 10, 1996.
8	Transcript of Interview with _____ dated June 20, 1996.
9	Work Force Reduction Matrix for DUBE's group, dated October 11, 1995.
10	Performance Appraisal.
11	Performance Appraisal.
12	Performance Expectations for _____ dated February 20, 1995
13	mid-year Performance Appraisal, dated February 16, 1995.
14	Work Force Reduction Matrix for _____ ) dated October 3, 1995.
15	Performance Appraisal.
16	Performance Appraisal.
17	Work Force Reduction Matrix for GUERCI's group, dated October 13, 1995.
18	Performance Appraisal.
19	Performance Appraisal.
20	Letter to the Department of Labor, dated March 25, 1995.
21	Memorandum to _____ dated April 13, 1995.

*[Handwritten marks]*

22 Memorandum to ( ) dated July 14, 1995.  
23 NU Notification to ( ) dated November 30, 1995.  
24 Letter to the NRC/Office of Investigation, dated  
June 24, 1996.  
25 Summary of ( ) Performance Appraisals.  
26 NU Organization Chart, selected departments, dated summer of  
1995.  
27 NU Letter to the NRC, Employee Layoffs, dated February 21,  
1995.  
28 NU Internal Memorandum, Staffing Reductions, dated June 29,  
1995.  
29 NU Internal Memorandum and Executive Summary of the  
Assessment Report, dated January 30, 1996.  
30 NU Internal Memorandum, Nuclear Work Force Reductions, dated  
January 9, 1996.  
31 NU List of Laid Off Employees and List of Added Assurance  
Review.  
32 NU Internal Memorandum, Work Force Reduction Feedback, dated  
January 29, 1996.  
33 NU Letter (CUOCO) to the NRC (Letts), dated August 8, 1996.  
34 NRC Draft Feeder Report to Inspection Report  
35 Memorandum to File, Summary of NRC Feeder Report.  
36 Transcript of Interview with ( ) dated April 4,  
1996.  
37 Transcript of Interview with DUBE, dated April 3, 1996.  
38 Transcript of Interview with ( ) dated June 4, 1996.  
39 Transcript of interview with ( ) dated June 4, 1996.  
40 Transcript of Interview with ( ) dated June 4, 1996.  
41 Transcript of Interview with ( ) dated April 4, 1996.  
42 Transcript of Interview with KUPINSKI, dated April 13, 1996.  
43 Transcript of Interview with KUPINSKI, dated May 8, 1996.  
44 Transcript of Interview with ( ) dated May 8, 1996.

45 Transcript of Interview with( ) dated June 5, 1996.  
46 Transcript of Interview with( ) dated June 5, 1996.  
47 Transcript of Interview with( ) dated June 5, 1996.  
48 Transcript of Interview with( ) dated April 10, 1996.  
49 Transcript of Interview with GUERCI, dated April 9, 1996.  
50 Transcript of Interview with( ) dated June 5, 1996.  
51 Transcript of Interview with( ) dated June 5, 1996.  
52 Transcript of Interview with( ) dated June 5, 1996.  
53 Transcript of Interview with SCHMIDT, dated May 8, 1996.  
54 Transcript of Interview with( ) dated May 8, 1996.  
55 Transcript of Interview with( ) dated June 4, 1996.  
56 Transcript of Interview with BONACA, dated May 8, 1996.  
57 Transcript of Interview with DeLOACH, dated May 8, 1996.  
58 Transcript of Interview with DeBARBA, dated April 4, 1996.  
59 Transcript of Interview with DeBARBA, dated July 9, 1996.  
60 Transcript of Interview with OPEKA, dated June 20, 1996.  
61 Transcript of Interview with BUSCH, dated July 9, 1996.

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Title: MILLSTONE UNIT 2:

DISCRIMINATION AGAINST A DESIGN ENGINEERING SUPERVISOR AS A RESULT  
OF RAISING CONCERNS TO THE NUCLEAR SAFETY CONCERNS PROGRAM

Licensee:

Northeast Nuclear Energy Company  
P.O. Box 270  
Hartford, Connecticut 06141

Docket No.: 50-336

Case No.: 1-97-007

Report Date: May 18, 1998

Control Office: OI:RI

Status: CLOSED

Reported by:

*Kristin L. Monroe*

Kristin L. Monroe, Special Agent  
Office of Investigations  
Field Office, Region I

Reviewed by:

*Barry R. Letts*

Barry R. Letts, Director  
Office of Investigations  
Field Office, Region I

Participating Personnel:

Keith G. Logan, Special Agent  
Office of Investigations  
Field Office, Region I

Approved by:

*Guy P. Caputo*

Guy P. Caputo, Director  
Office of Investigations  
Field Office, Region I

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CRIMINAL PROSECUTION.

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*[Signature]*

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LIST OF INTERVIEWEES

Exhibit

BUSCH, Robert E., former Chief Financial Officer, NU . . . . . 32

CHATFIELD, Larry, Project Manager, Engineering Assurance  
Oversight, NU, former Director, Nuclear Safety  
Concerns Program, NU . . . . . 29

DeBARBA, Eric A., Vice President, Altran, Engineering &  
Management Consultants, former Vice President,  
Nuclear Technical Services, NU . . . . . 31

FLEMING, Virginia, Human Resources Coordinator, Seabrook  
Station, North Atlantic Energy Services Company,  
former Personnel Manager - Nuclear, Millstone  
Nuclear Power Station, NU . . . . . 33

KINNEY, Frank, Senior Vice President, Governmental Affairs, NU . . . . . 47

NECCI, Raymond P., Director, Configuration Management,  
Millstone, former Director, Nuclear Engineering,  
MP2 . . . . . 23, 24, & 37

NOYES, John, Vice President, Business Strategy, NU . . . . . 48

RICHTERS, Ed, Attorney, former Vice President, Human Resources,  
NU . . . . . 36

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ROMER, Robert W., Director, Human Resources, Energy Resource  
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SABATINO, Frank P., Vice President, Wholesale Marketing, NU . . . . . 49

TERRY, Mertie, Human Resources Analyst, NU . . . . . 46

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## DETAILS OF INVESTIGATION

### Applicable Regulations

10 CFR 50.5: Deliberate misconduct (1995 and 1996 Editions)

10 CFR 50.7: Employee protection (1995 and 1996 Editions)

### Purpose of Investigation

This investigation was initiated by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region I Field Office, on March 6, 1997, to determine whether [REDACTED] former Supervisor, Electrical Engineering, Engineering Services Department (ESD), Millstone Unit 2 (MP2), Northeast Utilities System (NU), was fired on August 2, 1995, as a result of raising concerns to the Nuclear Safety Concerns Program (NSCP). In November 1994, [REDACTED] was allegedly threatened with termination by [REDACTED] if [REDACTED] work on the Engineering Safeguards Actuation System (ESAS) extended a refueling outage. [REDACTED] reported this threat to Larry CHATFIELD, Director, NSCP, in November 1994. [REDACTED] was subsequently fired on [REDACTED] (Exhibits 1, 2, and 3, pp. 4 and 47-57).

### Background

Exhibit 4 is a copy of a letter to [REDACTED] from [REDACTED], dated August 2, 1995. The letter discloses that [REDACTED] was terminated "due to performance deficiencies and poor supervisory judgment."

Exhibit 5 is a copy of "Interview Checklist 2," completed by [REDACTED] at the time of his termination. The document discloses that [REDACTED] was threatened with termination if the ESAS project extended a refueling outage. [REDACTED] was satisfied with how his concern had been processed, "until I was fired [August 2, 1995]."

Exhibit 6 is a copy of a memorandum to KINNEY, NOYES, and SABATINO, from FLEMING, dated December 13, 1995, Subject: "Discharge Grievance: [REDACTED]." Attached to the memorandum was [REDACTED] background information for his grievance. [REDACTED] requested that he be ". . . [REDACTED]"

Exhibit 7 is a copy of a memorandum to KINNEY, NOYES, and SABATINO, from TERRY, dated December 26, 1995, Subject: "Discharge Grievance: [REDACTED]." Attached to the memorandum was background information on [REDACTED] grievance, prepared by [REDACTED] which was to be substituted for [REDACTED] earlier submission (reference Exhibit 6).

AGENT'S NOTE: There is no substantive difference between [REDACTED] two submissions.

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Exhibit 8 is a copy of a memorandum to KINNEY, NOYES, SABATINO, and FLEMING, from TERRY, dated December 29, 1995. Subject: "Grievance ( )". The memorandum discloses the dates and the individuals to be interviewed regarding ( ) grievance.

Exhibit 16 is a copy of "Northeast Utilities Root Cause Investigation, ( )". The investigation discloses that, "Errors in judgment were noted in the ( ) that were involved with the plan. The most severe errors in judgment were made by the ( )".

Exhibit 17 is a copy of ( ) from ( ) dated July 13, 1995. The ( ) confirms the substance of a meeting between ( ) and NECCI. During the meeting, ( ) poor judgement, which resulted in the ( ) was discussed. The ( ) further discloses that ( ) decision to bypass established review bodies, i.e., PORC, was a "serious lapse in judgement" and a violation of "our nuclear safety ethic." As a result, ( ) was suspended from work, without pay, for three days.

Exhibit 11 is a copy of ( )

Interviews of Allegor (Exhibits 3, 12, 13, 14, and 14A)

( ) was interviewed by OI on January 16, 1997, March 12, 1997, April 29, 1997, May 13, 1997, and telephonically contacted on April 28, 1998, and stated substantially as follows:

( ) has been employed by NU since ( )

( ) who worked for ESAS modification project. In November 1994, ( ) was told by ( ) that if ( ) extended the refueling outage, through the implementation of the ESAS project, they would be fired. ( ) was "shocked." ( ) told ( ) that he could not be serious. If there were problems with ESAS they would have to be fixed, because ESAS was an important safety system. ( ) told ( ) that he wanted to speak to NECCI (Exhibit 12, pp. 26, 39, and 40).

( ) spoke to NECCI (with ( ) present) about ( ) threat. According to ( ) NECCI "reaffirmed" the threat (Exhibit 12, pp. 26 and 27; and 40-45).

AGENT'S NOTE: ( ) personal log discloses that on November 15, 1994, ( ) on ESAS, i.e., will replace us if don't get going." On ( )

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November 16, 1994, "Meeting with [REDACTED] on threats of being fired, & [REDACTED] not doing job" (Exhibit 15, p. 1).

[REDACTED] said that he and [REDACTED] were both very shocked and did not know what to do. They did not know if they should go to the NRC directly, or if they should go to the NSCP. [REDACTED] decided that they would go to the NSCP. [REDACTED] called CHATFIELD, who arranged for a meeting. During the meeting with CHATFIELD, [REDACTED] explained the threat. According to [REDACTED] CHATFIELD "immediately saw the significance," because he understood the importance of the ESAS system (Exhibit 12, pp. 27 and 45-47).

According to [REDACTED] CHATFIELD spoke to DeBARBA. [REDACTED] was told by CHATFIELD that DeBARBA agreed that the threat was not an appropriate way to treat people. [REDACTED] said that DeBARBA also spoke to him. DeBARBA told [REDACTED] that he could not be fired for such a situation. [REDACTED] said that DeBARBA also spoke to [REDACTED]. At that point, [REDACTED] "felt pretty good" (Exhibit 12, pp. 27, 28, 47, and 50-53).

AGENT'S NOTE: [REDACTED] does not recall DeBARBA speaking to him regarding the threat.

[REDACTED] said that NECCI subsequently spoke to him. [REDACTED] thought that the reason for the discussion was so NECCI could convey what DeBARBA had said, that he and [REDACTED] would not be fired. [REDACTED] recalled that NECCI told him that he should not have said anything to [REDACTED] [about the threat]. [REDACTED] said that "stuck in my memory," however, he did not record it in his log. When asked if NECCI's demeanor was threatening when he told him about [REDACTED] [REDACTED] acknowledged that it was (Exhibit 12, pp. 48-50).

[REDACTED] said that a lot of problems were found with ESAS during the implementation of the project. Everything that was found to be wrong was fixed. The effect of fixing the problems was that the project took longer than originally planned. [REDACTED] did not think that it would be fair to say that the ESAS project was the only reason the refueling outage was extended. According to [REDACTED] the project was in good shape and ready to be implemented, when [REDACTED] made the threat (Exhibit 12, pp. 28-36).

On August 2, 1995, [REDACTED] was advised by [REDACTED] and NECCI that he was being terminated. He was not given a reason for the termination. [REDACTED] was "completely shocked." When he asked if the termination was negotiable, NECCI said that it was not (Exhibit 12, pp. 14 and 15).

[REDACTED] felt that his performance was always "pretty good." [REDACTED] denied that he had ever been counseled by [REDACTED] because of his deficiencies as a supervisor. [REDACTED] said that [REDACTED] would "give me advice" on how to do something better (Exhibit 12, pp. 51 and 91-93).

[REDACTED] said that [REDACTED] who worked for [REDACTED] was asked [REDACTED] because management was not happy with his performance. [REDACTED] said what was noteworthy about this was if management had similar concerns about

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P. J. [REDACTED]  
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[redacted] ability as a supervisor, why wasn't he permitted to [redacted] felt that he had been treated differently than [redacted] by NECCI. In response to questions from OI, [redacted] said he thought that the different treatment could be associated with the earlier threat from [redacted] and NECCI regarding the ESAS project (Exhibit 13, pp. 25-27).

In [redacted] because he felt that the NU's action was unwarranted and unjust (Exhibits 6 and 7).

In [redacted] was advised by TERRY and ROMER that he had [redacted] case. Sometime later when he and ROMER were putting the "finishing touches" on [redacted] requested that the

[redacted] wanted to clear his personnel file for any future jobs or promotions (Exhibit 12, pp. 19 and 20; and Exhibit 14, p. 5).

According to [redacted] ROMER told him that he thought that [redacted] deserved a statement to that effect in [redacted] ROMER checked with the Legal Department and found that type of statement could not be put in the Committee's report. However, [redacted] would be permitted to read the Grievance Committee's report. ROMER told [redacted] that the grievance report would go into [redacted] personnel file. [redacted] was not "thrilled" with that. If he looked for another job, someone would be able to review the grievance report and conclude that he had performance deficiencies (Exhibit 12, pp. 19, 20, and 24; and Exhibit 14, pp. 5 and 6).

On December 24, 1996, [redacted] read the Grievance Committee report and learned, for the first time, why he had been terminated. He was being blamed for the [redacted] on [redacted]

AGENT'S NOTE: Exhibit 10 is a copy of a document titled, "Grievance of [redacted] The document discloses that, "The Committee's investigation revealed that management terminated the Grievant's employment because they believed the Grievant had exhibited performance deficiencies and poor supervisory judgment in connection with [redacted]"

While the [redacted] was referenced in the Grievance Committee decision as the reason for his termination, [redacted] said that he was [redacted] during the test. [redacted] had designated that [redacted] act for him, and [redacted] had approved it. [redacted] for the ATWS system and was present for the test. [redacted] as a result of the testing (Exhibit 12, pp. 60-70; and Exhibit 13, pp. 7 and 8).

[redacted] might be coming their way. [redacted] asked him for more information because that was a "frightening thought." [redacted] was never able to give [redacted] any more details about what [redacted] they might receive. [redacted] said it was

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"kind of implied" that it was coming from management, but it was not clear, even though [redacted] asked [redacted] about it several times (Exhibit 12, pp. 77-79 and 81-84).

AGENT'S NOTE: Exhibit 16 is a copy of "Northeast Utilities Root Cause Investigation, [redacted] dated [redacted] [redacted] was not implicated in the activities on [redacted] nor was he interviewed by the root cause investigation team.

When [redacted] was terminated on August 2, 1995, he had a slight feeling that it was the punishment that [redacted] had referred to after the [redacted]. However, [redacted] overriding feeling was that he was terminated because of the earlier threat from [redacted] and NECCI. After he was fired, [redacted] learned that [redacted], but was later taken out of that position. [redacted] subsequently assumed responsibility for the group (Exhibit 12, pp. 84-87).

#### Coordination with Regional Staff

Brad FEWELL, Regional Counsel, NRC Region I, was periodically contacted during the course of this investigation.

Allegation No. 1: [redacted] was Terminated On August 2, 1995, As a Result of Raising Concerns to the NSCP

#### Documentary Evidence

The following documents were reviewed regarding the allegation that [redacted] was terminated on August 2, 1995, as a result of raising concerns to the NSCP.

Exhibit 18 is a copy of [redacted] "NU Performance Management Program" for performance year [redacted].

Exhibit 19 is a copy of the "NU Performance Management Program" for [redacted] for performance year [redacted]. The appraisal discloses that, "... while [redacted] has been a steady contributor in the past year, he needs to adopt a more aggressive posture as we transition to a competitive market." The appraisal also discloses that, "[redacted] needs to monitor and control work in progress better. This will allow the accomplishment of more tasks in a more timely manner." The appraisal further discloses that, "The ESAS project was over budget and not on schedule. While some of the factors involved in this effort were beyond [redacted] (outage stand down) others were controllable. Numerous part delays and procedure rewrites were necessary to implement the design." [redacted] received an "NI" (needs improvement) in the general competency of "Monitoring & Controlling Work Progress."

AGENT'S NOTE: This is the first needs improvement that [redacted] ever received.

Exhibit 20 is a copy of a memorandum to Unit 2 Managers & Supervisors, from NECCI, dated [redacted], Subject: [redacted] "Performance Reviews." The

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memorandum discloses that most of the reviews were not addressing an individual's "Need for Improvement." NECCI wrote that he expected all reviews in the future to have a discussion of areas that were needed for improvement. Further, NECCI wrote that he believed that "we all" have areas that need improvement, and as supervisors, "we" should show that on reviews.

Exhibit 26 is a copy of a memorandum to Nuclear Vice Presidents, Directors, Managers and Supervisors, from OPEKA, dated [redacted] Subject: "Multiplier Decisions." Attached to the memorandum was a document titled "MP2 Raises [redacted] The document discloses that [redacted] received the [redacted] as a supervisor for [redacted]

AGENT'S NOTE: The document was not part of the original memorandum, but was prepared for the Grievance Committee. It was forwarded to OI attached to the [redacted] memorandum.

### Testimonial Evidence

The following individuals were interviewed regarding the allegation that [redacted] was terminated on August 2, 1995, as a result of raising concerns to the NSCP.

### Interview of [redacted]

[redacted] was interviewed by OI on May 12, 1997, and stated substantially as follows:

[redacted] has been employed by NU since [redacted]

[redacted] where he worked for [redacted]

[redacted] was the [redacted] associated with the ESAS system. [redacted] recalled a day when [redacted] came him and said that they were threatened, or that he [redacted] was threatened. [redacted] did not believe it. That same day, [redacted] met with [redacted] and NECCI. During the meeting, [redacted] said something to the effect that there was the potential that [redacted] could be disciplined or fired if the job did not get started. [redacted] told [redacted] that the job was being held up by the Plant Operations Review Committee (PORC). [redacted] also asked [redacted] if he thought that [redacted] was remiss on something. [redacted] said that he felt that [redacted] was not anticipating all the concerns from everyone else. [redacted] told [redacted] that he did not think that [redacted] had been there to support them (pp. 54 and 55).

After the meeting, [redacted] spoke to CHATFIELD and told him about how they were being blamed for the ESAS issue. CHATFIELD said that he would talk to DeBARBA. [redacted] thought he recalled that CHATFIELD later told him that he had talked with DeBARBA. [redacted] did not recall much being said about the incident for a period of time, and it seemed like the "heat was off for a while." The project had started, and [redacted] was not thinking about what had happened. [redacted] did not recall [redacted] or NECCI ever

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discussing the issue with him after he had spoken to CHATFIELD. When asked how the issue was resolved, [redacted] said that the whole issue was that the job was not being done and that he was holding things up. When the job started, everybody started to feel better (pp. 55-62, and 82).

[redacted] said that there may be a connection between [redacted] and NECCI's threat in November 1994 and [redacted] termination, but asked, "how are you ever going to prove that?" When asked if he knew of any other reason for termination, [redacted] said it could have been one thing or a combination of things, he did not know (pp. 75, and 89-91).

#### Interview of [redacted]

[redacted] was interviewed by OI on April 29, 1997, and stated substantially as follows:

[redacted] has been employed by NU for [redacted] years. He is currently [redacted]

Worked for [redacted] until [redacted] termination in [redacted]

At the time of the ATWS testing on [redacted]

AGENT'S NOTE: [redacted] was interviewed because he was the [redacted] for the ATWS test on [redacted] had been performed. [redacted] said that, at the time of the test, his responsibility for the project had ended. It is the reporting agent's opinion that [redacted] was evasive in answering questions regarding his responsibility for the ATWS testing on [redacted] (pp. 12-20).

When asked directly how [redacted] could be held responsible for the events on [redacted] responded that he did not know (p. 20).

He said that he had no obligation to [redacted] the test; he was there as [redacted] and he did it on his own accord. [redacted] wanted to see if there were any technical questions, and, if so, he would be there to answer them. [redacted] did not sign off on the work order or review the work order to see what was being done (pp. 24-26).

[redacted] acknowledged that he received [redacted] When asked if he thought that was fair, [redacted] responded, "No." [redacted] did not take any action to challenge [redacted] because he did not think that it would do any good. When asked if he felt he was being held responsible instead of someone else, [redacted] said, no, in terms of another person being responsible (pp. 28-30).

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( ) understood that he was ( ) because he was in charge of the request to ( ) to run the test. ( ) said that the whole test structure was determined to be flawed, adding, "That's all I'm going to say about it" (p. 32).

When asked to account for how he ( ) was ( ) for the test on ( ) and yet ( ) was removed, ( ) commented, "They seem logically incompatible, don't they?" When asked if he thought that ( ) was targeted for some other reason, ( ) responded, "No." ( ) was not aware if ( ) had raised any safety issues or if he had raised concerns to the NSCP (pp. 33 and 34).

When asked if he was aware that ( ) had been threatened with termination if he delayed the ESAS project or the outage, ( ) said he did not recall that "specifically." ( ) recalled that the business climate was to get things done as expeditiously as possible, in the context of all the safety issues. ( ) had never heard ( ) or any other manager, propagate or "espouse" doing otherwise (p. 35).

( ) recalled that shortly after he received ( ) told him that ( ) said that he ( ) would be dealt with later, or something in that context. ( ) said that ( ) concern about being fired was a "recurring theme in discussion." ( ) did not recall ( ) concern being as concrete as a threat from ( ) regarding the ESAS project (pp. 36 and 37).

#### Interviews of NECCI (Exhibits 23, 24, and 37)

NECCI was interviewed by OI on June 27, 1997, July 9, 1997, and April 9, 1998, and stated substantially as follows:

NECCI has been employed by NU for approximately 21 years. He is the Director, Configuration Management Program, Millstone. One of NECCI's prior positions was Director of Engineering, MP2. As a supervisor, ( ) reported to ( ) who reported to NECCI. ( ) worked for ( ) from approximately ( ) until he was terminated on August 2, 1995.

( ) termination was a culmination of several years of dealing with the ( ) and with ( ) as a supervisor in that department. ( ) was considered as someone who was finding it very difficult to be part of the management team and who was not providing the right leadership to his group (Exhibit 23, pp. 12 and 13).

One of the major projects that the Engineering organization was responsible for, going into the outage, was the engineering and delivering of the pieces and parts needed to install the modification to the ESAS. As the beginning of the outage was reached, Engineering and ( ) were not ready to support the modification. Continuing through the outage, the ESAS project did not go well; it was over budget and over schedule. There were several other events in ( ) that indicated ( ) was not capable of providing the supervisory direction that his group needed. The outage was a culmination of what had been sensed all along. NECCI said that they tried to show ( ) the

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way to go and gave him some signals that he needed to improve, one of which was the NPIP, which sent some "pretty strong messages" to [REDACTED] that he needed to improve his performance (Exhibit 23, pp. 14-16 and 65-67).

AGENT'S NOTE: [REDACTED] advised that the [REDACTED] performance year was the first time that individuals were ranked for performance via the NPIP. The NPIP ranked individuals from high to low, and the highest and lowest performers stood out. In the past, that line of demarcation between good and bad performers was not noticed. Prior to the NPIP, everyone received the same yearly pay raise, and there was very little flexibility in what an individual received (Exhibit 14A).

Within a week or two of the outage, PORC recommended changing the installation method for ESAS. This required that new procedures be written for the installation technique. The PORC decision was compounded by the fact that the engineering for the project was not complete.

NECCI said that the ESAS project was not well planned, and that was [REDACTED]. In terms of [REDACTED] involvement as a supervisor, the group was in a catch up mode even before the change in PORC standards or technical specification standards. [REDACTED] did not get his people and his group to where they needed to be. As a result, they were in a reactive mode and paid the price (Exhibit 23, pp. 13-17, 21-23, and 67).

NECCI was out of town prior to the November 14th/15th [1994] time frame. Apparently, [REDACTED] attended a regular briefing meeting with senior management during the outage. NECCI assumed that [REDACTED] briefed [REDACTED] on management's view that the ESAS job was not moving. [REDACTED] may have characterized it as they had to get their act together and get moving. NECCI did not know exactly what [REDACTED] said to [REDACTED] (Exhibit 23, p. 37).

When NECCI returned to the office, he met with [REDACTED]. It appeared that [REDACTED] had requested the meeting because he was concerned about mixed messages that he was hearing from management. [REDACTED] opened the meeting by asking if [REDACTED] were going to be fired. NECCI's response was that he did not think that working level people would be fired for ESAS type problems, although directors might be fired (Exhibit 23, pp. 37 and 38; Exhibit 24, pp. 1-7; and Exhibit 25).

A day or two later, NECCI was called to DeBARBA's office. NECCI was advised by DeBARBA that either [REDACTED] had contacted CHATFIELD and had said that they felt they were threatened with being fired (Exhibit 23, pp. 38 and 39; and Exhibit 25, p. 4.)

As a result of his discussion with DeBARBA, NECCI set up a meeting with [REDACTED]. During that meeting, [REDACTED] explained his comments and advised that he did not mean that they were going to get fired. The comment was meant as a management sense of encouragement that they had better get moving, or there could be some consequences. It was not meant as a direct "You will be fired for your performance" type of comment (Exhibit 23, pp. 38 and 39).

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NECCI denied that he ever told [redacted] that he would be fired if he delayed the length of the ESAS project, or if the project caused the outage to be prolonged. NECCI could not recall saying anything that would have indicated that to [redacted] other than the job needed to be moved along, and [redacted] was responsible for doing that (Exhibit 23, p. 40).

When asked if he was admonished by DeBARBA, NECCI said that it was made clear to him that whatever was said and whatever the intent was, the comments were taken in a way that was threatening to the individuals. DeBARBA made it clear that was not how people should be talked to and that it needed to be cleared up right away (Exhibit 23, p. 42).

NECCI advised that [redacted] for ATWS. On [redacted] during ATWS testing, [redacted] had no direct involvement with the event [redacted]. NECCI said that [redacted] involvement ties back to the issue of leadership and setting standards for [redacted]. The fact that [redacted] would consciously decide not to bring management into a discussion, because they may slow him down, indicated that the right type of leadership, training, and setting of standards had not been going on in [redacted] for a long period of time (Exhibit 23, pp. 44-49).

According to NECCI, [redacted] for his decision not to bring in management. [redacted] was not directly penalized for [redacted] decision. The ATWS event may have been a catalyst because management perceived it as one more event that [redacted] had occur on its watch (Exhibit 23, pp. 44-49).

Informal discussions about replacing [redacted] as a supervisor started about two weeks before the termination date [redacted]. During that time, while [redacted] NECCI received a telephone call from [redacted] told him about a discussion that he had with DeBARBA. During that discussion, DeBARBA indicated that there was some desire to fire [redacted]. NECCI told [redacted] not to do anything until he returned from [redacted] (Exhibit 23, pp. 44-49 and Exhibit 37, pp. 6 and 9).

When NECCI returned from [redacted] he discussed with DeBARBA his plans about how to deal with [redacted]. NECCI's decision was to remove [redacted] as a supervisor, however, he had not decided where to put [redacted]. As part of the same discussion with DeBARBA, DeBARBA's comment was that the company had essentially moved toward higher standards of accountability for management. The new philosophy, which NECCI thought started in 1995, was not documented. When NECCI advised DeBARBA that [redacted] was not going to be a supervisor, it was decided that [redacted] needed to be terminated (Exhibit 23, pp. 49-52 and Exhibit 37, p. 11).

NECCI advised that any of his discussions with FLEMING would have been to implement [redacted] termination. NECCI did not recall having any other discussions with FLEMING, other than implementing the termination. NECCI also could not recall being at a meeting with FLEMING where options other than the termination of [redacted] were discussed (Exhibit 37, pp. 8-10).

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NECCI did not believe that putting ( ) would improve performance. NECCI continued that he and ( ) had "really worked" with ( ) over a "fair amount of time," even though it was not documented in NU's performance improvement program. They had reached the point where they could not afford for ( ) to be a supervisor any longer (Exhibit 37, pp. 12 and 13).

NECCI advised that ( )

( ) Feedback from plant management was that some areas that ( ) was responsible for were not getting done. There were no major events in ( ) like the ESAS project in ( ) was not the strongest leader, but he was a positive individual who would try to get his people to do the right thing. It was felt that if ( ) remained as a supervisor, he would not be successful. There was a management discussion and ( ) chose to take an open ( ) position (Exhibit 23, pp. 52-55).

NECCI advised that ( ) was not working for him in March 1996, when ( )

( ) NECCI continued that Joe VARGAS was appointed the Engineering Director for all five units, around February 1, 1996. VARGAS reported to DeBARBA, who became the Vice President, Technical Services. According to NECCI, VARGAS made a number of changes in the Engineering organization and management team. NECCI had to assume that VARGAS made some judgement about who would be the best design people for the organization. NECCI did not recall laying out a plan that would suggest that ( ) would step down in some period of time (Exhibit 37, pp. 14-18).

NECCI denied that there was any connection between what ( ) perceived to be a threat in November 1994, and his termination in ( ) (Exhibit 23, p. 59).

Interviews of ( ) (Exhibits 27, 28, and 38)

( ) was interviewed by OI on July 9, 1997, September 3, 1997, and April 9, 1998, and stated substantially as follows:

( ) reported to NECCI.

( ) was responsible for coming up with ( ) ESAS system that would fix the known design deficiencies, make performance improvements, and add "obsolescence enhancement" to the system. The design of the project came from ( ) as the supervisor, was responsible for overseeing the work done by ( ) (Exhibit 27, pp. 9 and 10).

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The ESAS project did not move forward because of the general control of work, monitoring of work in process, and control of work in process. In general terms, ( ) as it needed to be. That weakness manifested itself in the ESAS project because of its complexity and its ties back to the plant (Exhibit 27, pp. 18-20).

About ( ) into his tenure as ( ) began to formulate some "solid opinions" about his people. Once ( ) became aware of ( ) weaknesses, he attempted to obtain staffing from other units to support "us." ( ) counseled ( ) on a number of performance deficiencies. ( ) weakness in monitoring and control of work in progress was not only present on the ESAS project, it was a common theme and symptomatic of a broader performance issue. ( ) does not believe that he documented his counseling sessions with ( ) (Exhibit 27, pp. 21-23).

When ( ) was asked if he needed help for the ESAS project, he indicated that he did not. According to ( ) aggressive pursuit of problems was questionable. ( ) did not always know how to pull things together in order to solve a problem in an expeditious manner. ( ) had difficulty providing clear, efficient direction in a leadership role (Exhibit 27, pp. 26 and 27).

( ) did not remove ( ) from the ESAS project once he had identified that there was a problem, because the way that he dealt with the problem was to do coaching. ( ) spent "considerable time in that arena." Eventually, resources were obtained to help with the ESAS project, which was "outside of ( ) desire" to have resources assigned to the project (Exhibit 27, pp. 27-29).

The ESAS project was not going well, issues were being identified, and the project was stalled. There was no clear direction on what to do next, and the impact on the unit was significant. ( ) recalled telling ( ) at a meeting that they were all going to get fired if they did not get the project going. ( ) did not intend any literal interpretation of his comment. ( ) thought that they [NECCI, ( )] were all responsible for the project and needed to "get our act together." ( ) has never known of any instance when someone was fired for one event, even if the event was performance related. After the meeting with ( ) thought that ( ) was also present), ( ) went to DeBARBA and voiced their concern about the conversation (Exhibit 27, pp. 30-34).

DeBARBA later talked to ( ) and NECCI. ( ) told DeBARBA the context of what he had said to ( ) DeBARBA advised ( ) that he had to be careful about what he said. ( ) inferred from DeBARBA that his words were inappropriate for the circumstances (Exhibit 27, pp. 34-36).

On ( ) there were testing activities on the ATWS system. The testing resulted in an event ( ) acknowledged that ( ) was not present for the ATWS test, and he did not have any effect on the outcome, either positive or negative. According to ( ) ATWS "loops back" into ( ) performance in a broader perspective. ( ) was not

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forthright in revealing all the information that was needed to make a correct assessment of the situation. ( ) purposely withheld discussions from key people, notably PORC, because he did not think that they would lend any credible review. ( ) characterized it as a kind of "arrogant behavior." According to ( ) had exhibited that type of behavior previously, as well as other kinds of behavior that were undesirable and needed correction by supervision. In that respect, ( ) counseling and coaching of people under him was not strong (Exhibit 27, pp. 37-41).

( ) advised that ( ) at the time of the ATWS event, and that he had put ( ) in charge. When asked why he put ( ) in charge, if he had some indication that ( ) exhibited undesirable or arrogant behavior, ( ) responded that he thought that ( ) was the most qualified of the people in ( ) to act in that capacity. ( ) denied that he had seen ( ) purposely withhold important information prior to the ATWS event. ( ) said that he had seen ( ) exhibit arrogant behavior. When asked how ( ) was responsible for ( ) arrogant behavior, ( ) responded, "Quash it." When asked by OI what action he had taken when he observed ( ) arrogant behavior, ( ) responded that most of the time he let his supervisors deal with individuals. ( ) did not recall going to ( ) directly about his behavior. ( ) thought, however, that ( ) should be held accountable for ( ) behavior with respect to the ATWS event (Exhibit 27, pp. 41-48).

When asked why he made ( ) following the ATWS event, ( ) responded, "I made a mistake. And my supervision [NECCI] told me I made a mistake" (Exhibit 27, p. 50).

( ) said that he did make a reference to REGAN about "follow on issues" with respect to the ATWS event. While he could not recall his exact words, he thought that the thrust of his comment was that there would be "follow on issues" with ( ), NECCI and himself, in the disciplinary area, with respect to performance (Exhibit 28).

The "follow on issues" were: ( ) knowing that they had to deal with the immediate issue of ( ) knowing that there were performance issues with respect to ( ) and more globally, him knowing that there were "some problems" in the department that he managed (Exhibit 28).

( ) said that his comment to ( ) would not have been as elaborate as what he described to OI. His comment to ( ) would have been more "cryptic," about "follow on issues" with respect to ( ) NECCI, and himself. He probably told ( ) that this was not the end of the performance issues. ( ) did not recall any comment from ( ) but did recall that he took the comment "pretty hard" (Exhibit 28).

( ) recalled that there was very little time between his comment to ( ) and ( ) termination on August 2, 1995, and very little discussion after that with respect to performance issues (Exhibit 28).

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did not receive any disciplinary action as a result of the ATWS event; however, he was replaced as the [redacted]. It was "pretty clear" before that time that he would be replaced. [redacted] was told by NECCI, as early as late [redacted], that he would be replaced. When asked why he remained in his position longer than [redacted] did, [redacted] said that the "simple answer" was that his performance was stronger than [redacted] believed that there was a connection between the performance of the [redacted] organization and him having another job (Exhibit 27, pp. 48 and 49; and Exhibit 28).

[redacted] believed that management perceived his supervisory skills to be valuable. He said that his demotion out of the [redacted] was performance based, in that his department did not perform well. [redacted] was hindered by the supervisors that reported to him, one of whom was [redacted] (Exhibit 38, p. 30).

AGENT'S NOTE: [redacted] received two "NIs" (needs improvement) in his performance appraisal for [redacted] and one "NI" in his performance appraisal for [redacted]. [redacted] received one "NI" in [redacted].

[redacted] denied that [redacted] termination was connected to what [redacted] perceived as a threat of termination from [redacted]. The ATWS event was another "piece of the pie" regarding the general performance of [redacted] and was viewed as another example in the long line of performance issues in [redacted] (Exhibit 27, pp. 54-58).

[redacted] did not recommend that [redacted] be fired. The initial broaching of that subject with [redacted] came from DeBARBA, following the ATWS event. [redacted] had contacted DeBARBA to advise what action had been taken with [redacted] with respect to [redacted] involvement in the ATWS event. Either during that first conversation with DeBARBA, or a subsequent conversation a couple of days later, the subject of [redacted] performance came up. DeBARBA told [redacted] that [redacted] performance was a historical issue and said that dismissal would be appropriate, or words to that effect (Exhibit 27, pp. 57-59 and Exhibit 38, pp. 11 and 12).

The discussion caught [redacted] "off-guard." [redacted] told DeBARBA that he wanted NECCI's involvement in the process. [redacted] called NECCI and told him of his conversation with DeBARBA. [redacted] said that he called NECCI [redacted] because he thought that firing [redacted] was "a little extreme" (Exhibit 27, pp. 57-59 and Exhibit 38, pp. 11 and 12).

Within a week or two of his conversation with DeBARBA, [redacted] met with FLEMING. [redacted] discussed the performance problems that he was having with [redacted] past performance appraisals were also reviewed and discussed with FLEMING during the meeting. While he could not recall what options were recommended by FLEMING, he did know that they were "something less" than dismissal, and that FLEMING felt that termination was not the most valid action (Exhibit 38, pp. 6, 7, and 12-17).

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While [redacted] had no further discussions with DeBARBA about [redacted] he did assume that there were discussions between NECCI and DeBARBA. When NECCI returned [redacted] he summarized the events, including his discussion with FLEMING. Sometime later, [redacted] was called by NECCI, [redacted] and advised that [redacted] would be fired (Exhibit 27, pp. 57-59 and Exhibit 38, pp. 20 and 21).

[redacted] did not fight the termination. He felt that the decision had been made and that his role in that decision making process would not alter the decision (Exhibit 27, p. 60).

Interview of CHATFIELD (Exhibit 29)

CHATFIELD was interviewed by OI June 20, 1997, and stated substantially as follows:

CHATFIELD is currently a Project Manager, Engineering Assurance Oversight. Previously, he was the Director, Nuclear Safety Concerns Program, from December 1993 until November 1996.

AGENT'S NOTE: During the OI interview, CHATFIELD referred to his notes (Exhibit 30) to recall the sequence of events and meetings. The majority of his testimony was taken from the notes.

On November 16, 1994, CHATFIELD received a call from [redacted] felt that [redacted] had been threatened regarding a project that [redacted] was working on. CHATFIELD's notes indicate that [redacted] was also threatened. Following the call from [redacted] CHATFIELD received a call from [redacted] about the same issue (pp. 11 and 12).

CHATFIELD met with [redacted] the following day; however, he could not find any notes from that conversation. During the meeting, the ESAS project was discussed, as well as the threat. CHATFIELD tried to gain an understanding of what was going on, so as to know how he might approach the issue (pp. 12-17).

CHATFIELD subsequently met with DeBARBA and confirmed that he had met with [redacted] However, DeBARBA had not yet met with [redacted]

AGENT'S NOTE: CHATFIELD indicated that his notes (Exhibit 30) disclose that DeBARBA noted that [redacted] needed to be more forceful as a leader (pp. 18 and 19).

CHATFIELD said that DeBARBA met with NECCI, [redacted] on [redacted] words and how people hear them. DeBARBA went back to the line organization because he wanted to make sure that they understood how their words can affect people (pp. 18-21).

CHATFIELD advised that his notes disclose that he met with [redacted] on December 15, 1994. [redacted] thanked CHATFIELD for his intervention on behalf of him and [redacted] told CHATFIELD that his discussion with DeBARBA was [redacted]

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very uplifting, almost to the point of motivating him personally. When CHATFIELD met with him, ( ) felt good again about his job and the security of the job, and felt that DeBARBA had answered his questions. ( ) was ready to go back to work (pp. 22 and 23).

As a result of ( ) completing a post employment document ["Interview Checklist 2, Exhibit 5], CHATFIELD had contact with ( ) Prior to speaking to ( ) CHATFIELD spoke with NECCI. CHATFIELD advised that NECCI told him that ( ) had been terminated. NECCI told CHATFIELD that ( ) clearly did not meet the expectations of management on two major project failures, ESAS and ATWS. NECCI told CHATFIELD that when DeBARBA approached him about what was going on, DeBARBA was looking at removing ( ) NECCI told CHATFIELD that DeBARBA gave him the "no fallen soldiers" speech. CHATFIELD said that, in the past, management people had stepped down into staff positions. The word went out, from John OPEKA and above, that if people were required to be removed in the future they would be terminated. According to CHATFIELD, NECCI was "lamenting" ( ) termination, as NECCI did not feel good about it (pp. 34-40, and 46).

CHATFIELD was shocked that ( ) was terminated. He did not think that ( ) performance problems had been documented to the extent that termination was the right answer. CHATFIELD agreed with NECCI that "we" were out to "shoot somebody in that line" (pp. 42 and 43).

CHATFIELD met with ( ) termination. Part of the discussion with ( ) included the NSCP. CHATFIELD advised that his notes disclose that he told ( ) that, in his opinion, the threat of ( ) job, should he hold up the outage, did not fit the 10 CFR 50.7 definition. CHATFIELD told ( ) that 10 CFR 20 might apply with respect to his issues and the way that the termination occurred. CHATFIELD did not take any action on the information that ( ) provided to him. From a personal standpoint, CHATFIELD wanted to make sure that ( ) was pursuing the NUP-23 process [grievance process] (pp. 47-52).

CHATFIELD could not make any connection between ( ) perception of the threat of termination in November 1994 and his termination in August 1995. CHATFIELD thought that, during that time frame, there was a lot of the "no fallen soldiers" philosophy. ( ) happened to be the engineer [supervisor] that fell into that category (p. 52).

#### Interview of DeBARBA (Exhibit 31)

DeBARBA was interviewed by OI on December 9, 1997, and stated substantially as follows:

DeBARBA has been employed by Altran Engineering & Management Consultants, as a Vice President, since May 1997. Previously, DeBARBA was employed by NU for 24 years. DeBARBA was Vice President, Nuclear Technical Services, when he left NU in December 1996.

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DeBARBA "vaguely" recalled that CHATFIELD had told him that ( ) and ( ) had been to see him (CHATFIELD) regarding some MP2 "stuff." DeBARBA's characterization of his conversation with CHATFIELD was that ( ) were "bothered by some things" that were going on, and had decided to talk to CHATFIELD. However, DeBARBA "could not tell" if there was a safety concern. DeBARBA acknowledged that ESAS was a safety related system. He further acknowledged that if ( ) had raised problems with the implementation or the operation of ESAS, it would be a nuclear safety concern (pp. 17-20).

DeBARBA recalled having what he characterized as discussions with ( ) DeBARBA thought that they were concerned about the project in some "way, shape or form," however, he could not recall the details. DeBARBA thought that he told ( ) to "calm down and focus on the work," and if they needed help, they would get it (p. 20).

DeBARBA felt that ( ) had used a poor choice of words in a situation where ( ) was trying to say that they were all at risk because the MP2 outage was not lining up well. DeBARBA thought that ( ) comments related to making sure that ( ) and were successful in executing the job. It had nothing to do with someone feeling threatened (pp. 22 and 23).

With respect to ( ) performance as a supervisor, DeBARBA thought that ( ) was weak. People within ( ) did not get the type of support that other supervisors were providing to their people. DeBARBA continued that a "number of people" in ( ) came to him (DeBARBA) and said that they felt disconnected from the ( ) Based upon that meeting, DeBARBA said that it "struck me" that they were without a leader. DeBARBA could not recall if any of the people in ( ) had concerns with respect to ( ) leadership ability from a technical standpoint (pp. 28-30).

DeBARBA advised that ( ) was terminated because he was not capable of being a supervisor. When asked who made the decision to terminate ( ) DeBARBA responded that ( ) and NECCI were the ones who decided that ( ) was unsatisfactory for the position. ( ) and NECCI recommended to him that ( ) no longer be a supervisor (pp. 32-36).

Regarding the fact that ( ) and NECCI did not want to fire ( ) DeBARBA commented that they did not have a specific suggestion as to where to place ( ) DeBARBA did not consider ( ) and NECCI not wanting to fire ( ) to be a recommendation on what to do with him. DeBARBA continued that there was a new standard for accountability. ( ) was in a situation where his project had "failed miserably" and he was held accountable for that failure. NU was no longer going to place people who could not perform adequately in their positions into lower level positions. Under the new philosophy of accountability, there was no alternative but for ( ) to be terminated (pp. 32-36, 45-48, and 81-88).

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DeBARBA acknowledged that "no fallen angels" was a quote from BUSCH. DeBARBA's recollection was that [redacted] and NECCI were aware of the "no fallen angels" philosophy, and that they had some discomfort with that, as did DeBARBA. However, DeBARBA said that they had a responsibility to the organization and to senior leadership with respect to accountability, and that, "collectively, we reached the decision" to terminate [redacted]. DeBARBA did not feel comfortable about the termination because it was a very difficult thing to do. DeBARBA did not recall if he had any contact with NU Human Resources, but thought that NECCI did. According to DeBARBA, there were numerous people involved in the decision to terminate [redacted] and DeBARBA did not recall a "single person objecting" and saying that terminating [redacted] was unacceptable (pp. 46 and 47).

DeBARBA denied that [redacted] was terminated because he had raised problems with respect to the ESAS project. DeBARBA added that, "to this day," he was not sure what safety concern [redacted] had ever raised (p. 86).

#### Interview of BUSCH (Exhibit 32)

BUSCH was interviewed by OI on March 10, 1998, and stated substantially as follows:

BUSCH was employed by NU until August 1996. At the time BUSCH left NU, he was the president of the Energy Resources Group. Prior to that, BUSCH was NU's Chief Financial Officer (CFO).

The term "no fallen angels" was a phrase that management used to try and explain to employees that there was an expectation for a higher level of accountability in terms of performance. "No fallen angels" was a management philosophy that applied to "everyone in the organization" (pp. 28-31, and 37).

Regarding the "no fallen angels" philosophy, BUSCH said that senior management decided to re-establish the use of termination via Human Resources policies that were in place. According to BUSCH, in the past there had been "enormous amounts" of discretion used when people performed poorly. Typically, the corporate approach to discipline, for senior middle management people, had been to demote them and leave them functioning in the organization that they had worked in. BUSCH continued that the "no fallen angels" philosophy was not intended to be "one strike and you're out," or a "Sword of Damocles" to be held over "everyone's head" (pp. 28-31).

BUSCH advised that the "no fallen angels" philosophy did not change the Human Resources process. The rules for termination did not change, and the multistep disciplinary process still had to be followed. If there was more than ample justification for termination, then more likely than not, termination should be the disciplinary action employed. The "no fallen angels" philosophy did not mean that people must be terminated, and it did not mean to forget good judgment and reason (pp. 34, 35, and 41).

BUSCH denied that he had any involvement in the decision making process with respect to [redacted] termination. BUSCH could not recall being told that [redacted]

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had been terminated. However, he said it would have been unusual to terminate ( ) supervisor without him being informed at some point (pp. 40 and 41).

### Interview of FLEMING (Exhibit 33)

FLEMING was interviewed by OI on March 17, 1998, and stated substantially as follows:

FLEMING has been a Human Resources Coordinator at Seabrook Station, North Atlantic Energy Services Company, since March 1996. Prior to that, FLEMING was the Personnel Manager - Nuclear, for Millstone Station and the Haddam Neck Plant, from March 1988 until March 1996.

FLEMING advised that there is a set of performance improvement guidelines (Exhibit 35) that suggest that management engage in performance improvement efforts with employees whose performance is failing or declining. NU has had performance improvement guidelines in place for a long period of time, however, there is no procedure that mandates what steps are to be taken. In the event of declining performance, the performance improvement guidelines "suggest and encourage" management to engage in a closer level of monitoring. FLEMING did not believe that it was necessary for management to involve Human Resources when performance issues occurred (pp. 17-30).

Referring to her handwritten notes (Exhibit 34), FLEMING advised that on July 11, 1995, ( ) spoke with FLEMING regarding his concerns about ( ) performance as a supervisor. According to FLEMING, she and ( ) discussed potential options with respect to ( ) performance. FLEMING denied that termination was one of the options that was discussed during the meeting with ( ) (pp. 39-47).

While she could not recall the exact sequence, FLEMING advised that, at some point, she recommended to ( ) that he discuss two options with DeBARBA, with respect to ( ). Those options were a ( ) FLEMING also recalled one other meeting where NECCI was present, and possibly ( ) where they ( ) and NECCI) were concerned that the Human Resources options would not be possible, because ( ) declining performance was not in accordance with BUSCH's expectations with regard to accountability and performance (Exhibit 33, pp. 52-56 and Exhibit 34).

On July 14, 1995, FLEMING was telephonically contacted by RICHTERS, who advised that a decision had been made with respect to ( ). RICHTERS told FLEMING that "we" would be terminating ( ) from NU. FLEMING said that she was not in the "habit" of having RICHTERS call her with any "regularity." FLEMING continued that RICHTERS' telephone call to her, advising that the decision to terminate ( ) had been made, was a "little unusual." FLEMING told RICHTERS about the options that she had provided to ( ) and NECCI, and RICHTERS responded that the decision had been reached. FLEMING thought that the ( ) termination was "outside" of what had been recommended and what

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she thought would happen. FLEMING was "disappointed" by the decision (pp. 60-64).

### Interview of RICHTERS (Exhibit 36)

RICHTERS was interviewed by OI on April 9, 1998, and stated substantially as follows:

RICHTERS was employed by NU from January 1989 until April 1997, when he left NU to start a private law practice. RICHTERS was an Assistant Vice President, and then a Vice President in Human Resources from March 1994 until April 1997.

With respect to RICHTERS involvement in the termination of an individual, RICHTERS advised that the "general rule" was that he should be contacted by Human Resources people to review the situation before any final action was taken. There was never a policy that non Human Resources people contact RICHTERS. RICHTERS continued that, generally, line management that wanted to terminate an individual's employment would talk with their Human Resources' representative, which was FLEMING for the Nuclear organization (p. 14).

RICHTERS was not involved in the initial decision making process with respect to terminating ( ). By the time that RICHTERS became involved, a decision had been made by ( ) management chain to terminate him. That decision was reviewed with RICHTERS. Prior to ( ) termination, RICHTERS was made aware of the fact that ( ) performance was being questioned and that it had been determined that he was not performing as expected. RICHTERS also knew that there were options with respect to what to do with ( ), however, there was no option concerning the need to remove him from his supervisory position. The option of demotion was considered to be an inappropriate way to resolve the issue, which left termination as the most appropriate option (pp. 32-36).

RICHTERS could not recall if DeBARBA or FLEMING first advised him that ( ) would be terminated. He also could not recall who he had spoken to first. RICHTERS does believe that his conversation with DeBARBA occurred after it had been determined that termination was the most appropriate action. RICHTERS and FLEMING discussed her concerns about the termination of ( ) (pp. 32-43).

RICHTERS' conversation with DeBARBA revolved around ( ) and the decision made by ( ) management chain that he needed to be removed from his supervisory position. It had also been determined that termination was the most appropriate action to take with respect to removal. RICHTERS talked to DeBARBA to get as much background as possible about their desire to terminate ( ) (pp. 35 and 36).

After his discussion with DeBARBA, RICHTERS believes that he called FLEMING. RICHTERS tried to explain to FLEMING that based upon his conversation with DeBARBA, he felt comfortable with allowing them to go forward and terminate ( ). While RICHTERS could not specifically recall FLEMING's concerns, he believed that FLEMING felt that other options were more appropriate than termination (p. 36).

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Interview of (Exhibit 39)

was interviewed by OI on July 9, 1997, and stated substantially as follows:

has been employed by NU for approximately

advised that was technically strong. weakness was that the performance and results for the group were not there. was large and a number of members required a lot of supervisory interaction to be effective. observed that was very tied into working with his people. However, a supervisor also has a job to get out in the field and be seen and interact with other departments. advised that "really didn't do that." felt that part of that was because it was not nature and part of was because of the situation with some of his people. said that part of the reorganization in December 1993 included a bigger span of control for and that was a change. felt that impacted effectiveness as a supervisor (pp. 8, 9, and 12).

had discussions "many times" with about his observations of weaknesses. did not recall documenting those discussions, but described them as coaching. said that most of those discussions occurred after he was the

was involved with other plant managers every day. Consequently, would see that other plant managers and were vocally upset about not being around. would call and cover those points with him (pp. 9 and 10).

After learned from that it was DeBARBA who wanted fired, spoke to DeBARBA and asked for an explanation. He told DeBARBA that the whole workforce was surprised and could use some sort of an explanation. DeBARBA told that while it was not surprising to see a job go poorly, it was expected that there would be supervisory involvement. According to DeBARBA added that, when several jobs go poorly with the same supervisor, and the supervisor does not get involved in getting them turned around in a timely manner, that was something that was not acceptable (pp. 14-16).

was "90-plus percent certain" that was terminated for performance reasons. When asked why he was not 100 percent sure, responded, "I don't know what I don't know." said it seemed impossible that could have been terminated for any other reason (p. 21).

Interviews of

was interviewed by OI on June 18, 1997, and telephonically contacted on April 28, 1998, and stated substantially as follows:

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has been employed by NU for approximately/

reported to NECCI.

found that [redacted] was not good at delegating or following up on work. When [redacted] had a [redacted] those problems were not manifested, but did so quickly once the [redacted] talked about what areas needed improvement. When a lot of improvement was not seen, and [redacted] became unsure that [redacted] was capable of improvement, it came to a point where [redacted] had to make a decision ( [redacted] time frame). [redacted] was suffering, as was the unit, because the right person was not in the job. [redacted] met with NECCI and discussed his concerns about [redacted] was very concerned about [redacted] well being. There had been a lot of discussion at the company president's level, that if a supervisor could not perform, the supervisor would be removed from the company. [redacted] did not know if that had happened before, but [redacted] was not going to let that happen to someone who worked for him and who was a good employee (pp. 10 and 11).

AGENT'S NOTE: [redacted] received 3 "NIs" (needs improvements) on his appraisal [redacted] received one "NI" (Exhibit 19).

[redacted] met with [redacted] and told him there were some alternatives; they could choose a [redacted]

[redacted] concurred in the decision. Within a couple of weeks, [redacted] a position for which he was well suited (pp. 12-16). NECCI

[redacted] did not interact frequently with [redacted]. He interacted more with [redacted] advised that there was one job in particular, ESAS, where [redacted] dealt frequently with [redacted]. When there were a lot of problems with the ESAS project, someone else was brought in to do the troubleshooting. [redacted] said that a lot of confidence was lost in [redacted]. He was not involved, he did not seem to want to be involved, and he was not providing direction to his group. [redacted] personally thought that [redacted] performance was [redacted] and voiced his concerns to NECCI and [redacted] (pp. 19-22).

According to [redacted] was never seen in the plant; he was not visible. In contrast, [redacted] was extremely involved with his people. [redacted] may not have had the best judgement because he could not "juggle the balls." [redacted] was often not just [redacted] but he also assisted in [redacted] or in the plant. In contrast, you could not get anything from [redacted]. If [redacted] owed you something, you were not going to get it (pp. 22-24).

[redacted] worked for [redacted] for a brief period of time (nfi), when [redacted] was a [redacted] was not involved in the decision making process with respect to [redacted] change in position. [redacted] did recall that he had spoken to NECCI and advised NECCI that [redacted] was a "good guy." [redacted] told NECCI that if [redacted] was going to "fall by the wayside," [redacted] wanted to put [redacted] into a vacant position in his organization. [redacted] "could not recall" if he had any discussion with DeBARBA with respect to [redacted] changing positions (Exhibit 44A).

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Interview of

was interviewed by OI on March 17, 1998, and stated substantially as follows:

has been employed by

AGENT'S NOTE: was interviewed because on September 5, 1995, due to performance deficiencies. In contrast, was terminated on August 2, 1995, purportedly for performance deficiencies.

When came to the was not in the field performing supervisory duties. Although kept the title of he was actually functioning in an While did not know all the details, he knew that had been having a difficult time performing as a supervisor and that he lacked supervisory capabilities. learned from a review of past performance appraisals that had very good ratings when he was After became a supervisor, there were performance appraisals (Exhibit 44) that indicated that needed improvement in the area of (Exhibit 42 pp. 15 and 23-26).

On September 5, 1995, was relieved of his duties as a This was a result of performance deficiencies that had exhibited as a supervisor (Exhibit 43). advised that prior to to a technical position, spoke with his supervisor, and discussed his proposal to also contacted the Human Resources group at Millstone, advised them of performance issues, and about his proposal to contacted Human Resources to see if his proposal was "consistent with company policy," based upon the information that had available at that time (pp. 32-34).

explained that he chose to instead of terminate him, because was, aside from his supervisory capabilities, a good employee. record indicated that in the area, when he was he did a good job. continued that still had value to the department and to the company. advised that he had not heard of the management philosophy of "no fallen angels" (pp. 34, 43, and 45).

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Allegation No. 2: Continuing Retaliation Against ( ), via Statements Contained in the Grievance Committee Decision

Documentary Evidence

The following documents were reviewed regarding the allegation that there was continuing retaliation against ( ) via statements contained in the Grievance Committee's decision.

Exhibit 9 is a copy of "Grievance of ( )" which is unsigned and undated. The document discloses that, "The Committee's investigation revealed that management terminated the Grievant's employment because they believed the Grievant had exhibited performance deficiencies and poor supervisory judgment in connection with ( )." The Committee's investigation also revealed that the Grievant did not demonstrate the supervisory skills necessary for his position as a Supervisor." In addition, the document discloses that, "The Committee concluded, however, that the process leading to the Grievant's termination was flawed. The Committee concluded the Grievant's deficiencies as a supervisor had not been adequately communicated to him because corporate and departmental guidelines for performance improvement plans were not followed. Most importantly, the Committee found that the Grievant had not been provided an opportunity to demonstrate that he could improve his performance." The document further discloses that the Committee decided that ( ) grievance was to be upheld.

Exhibit 10 is a copy of a memorandum to KINNEY, NOYES, SABATINO, from RICHTERS, dated December 13, 1996, Subject: " ( ) Grievance." Attached to the memorandum was a document titled, "Grievance of ( )"

AGENT'S NOTE: The findings and conclusions of the Committee remained the same. The ( ) eliminates the previous reference to a ( )

Testimonial Evidence

The following individuals were interviewed regarding the allegation that there was continuing retaliation against ( ) via statements contained in the Grievance Committee's decision.

Interviews of ( )

( ) was initially impressed with the Grievance Committee. He thought that the Grievance Committee "clearly saw a definite, clear-cut case" of retaliation between his termination and the [threat regarding the] ESAS project. ( ) and NECCI were supposedly reprimanded by DeBARBA. ( ) said it was a "clear-cut case of people retaliating against" him for causing them some embarrassment. ( ) did not expect the Grievance Committee to put in writing that he had been retaliated against for raising a safety concern.

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He thought they would keep it general and neutral. ( ) said that the grievance committee report did not help his future, in fact, it hindered it (Exhibit 12, pp. 88-91, and 93).

AGENT'S NOTE: Exhibit 10 is "Grievance of ( )" discloses that, "... the Grievant did not demonstrate the supervisory skills necessary for his position as a Supervisor."

( ) did not want to be ( ) however, the Grievance Committee's decision was written in such a way that ( ) said he was no longer capable of being in a supervisory position. ( ) advised that, "there's a big difference there" (Exhibit 12, pp. 23-25).

( ) said that the Grievance Committee's report was not an exoneration letter, and it did not "shed a favorable light" on his capabilities as a supervisor. According to the report, ( ) because the process had been flawed. ( ) saw the Grievance Committee's report as another form of retaliation because he had raised safety concerns (Exhibit 12, p. 22 and Exhibit 14, p. 5).

#### Interview of NECCI (Exhibit 23)

NECCI's discussion with the Grievance Committee centered around the issue of leadership. NECCI did not recall making a specific statement regarding ( ) being terminated because he exhibited performance deficiencies and poor supervisory judgement in connection with ( ). NECCI said that three technical issues may have been mentioned; specifically ESAS, ATWS, and the ( ). Regarding the statement in the conclusion section of the grievance decision, NECCI commented that the Grievance Committee was not comprised of technical people. NECCI opined that the ( ) was the most recent example of ( ) performance (pp. 59-63).

NECCI felt that there was some information from the NPIP and the salary program that sent some "pretty strong" messages to ( ) about where he stood. ( ) which meant that out of ten people, NECCI ranked ( ) for the ( ) performance year. For the prior performance year there had been an incentive raise, and if the department received a certain percentage, everyone received the same amount (pp. 64-67).

#### Interview of TERRY (Exhibit 46)

TERRY was interviewed by OI on June 17, 1997, and stated substantially as follows:

TERRY is a HR analyst at NU. She has been employed by NU for twenty years. TERRY acted as the ombudsman for ( ) during his grievance process.

TERRY recalled that ( ) wanted to be ( ) and was generic about the position. TERRY further recalled that ( ) made what she characterized as an offhand remark, namely, that he did not want to be responsible for other

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people anymore. During their discussions prior to the grievance hearing, TERRY and ( ) did not go into a lot of technical detail, they talked generically. During their discussions, ( ) and TERRY spent more time on the first issue, ATWS, while the second issue involving ESAS was "almost like an afterthought afterwards." TERRY opined that was why the second issue was "tucked" on the end of the grievance complaint. TERRY's understanding of ( ) position" (Exhibit 6, p. 3 and Exhibit 7, p. 2) was that ( ) wanted a non-supervisory position (pp. 29-31)

TERRY was present with ( ) when he appeared before the Grievance Committee [on January 3, 1996]. TERRY estimated that ( ) spoke for about one hour. Once ( ) had spoken before the committee, TERRY was finished and the Grievance Committee did its fact finding. TERRY was not updated on the progress of the fact finding (pp. 36-42).

According to TERRY, ( ) told the Grievance Committee about how the company offered mock training on how discipline should be done, and that he did not feel that he had been treated equally with other people. TERRY said that ( ) did not admit that he had done anything wrong. TERRY said that ( ) told the Grievance Committee that the company did not follow its own discipline if he had done something wrong. When asked if ( ) raised the issue of the threat from ( ) and NECCI, TERRY responded that, if he raised it, it was not "with enough forcefulness that I even remember it" (pp. 64-67).

TERRY became aware that ( ) had been ( ) in his grievance when she was told (nfi) by ROMER. When TERRY and ROMER called ( ) ROMER advised ( ) that he would be brought back, and that ROMER would be in touch with him. TERRY denied that ROMER said that ( ) had ( ) his grievance case. TERRY characterized the call as being very generic, in that ROMER simply informed ( ) that he would be ( )

TERRY does not know on what basis the Grievance Committee decided to ( ) ( ) That information is not discussed with her. TERRY's role ( ) concludes after the individual appears before the Grievance Committee. TERRY does not see anything in writing after that appearance (pp. 48-50).

#### Interview of KINNEY (Exhibit 47)

KINNEY was interviewed by OI on June 20, 1997, and stated substantially as follows:

KINNEY has been employed by NU for 40 years. He is currently Senior Vice President for Governmental Affairs, a position that he has held for five years. KINNEY participated as a member of the Grievance Committee that reviewed ( ) complaint. When asked if he was chairman of the committee, KINNEY said, "I guess I functioned as chairman of the committee." He did not know that the committee had officially made one.

AGENT'S NOTE: KINNEY's recollection of the specifics of the ( ) complaint were vague.

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KINNEY thought that ( ) alleged that he was terminated for an incident that happened while he was ( ) KINNEY did not recall the incident, but apparently the individual that had been left in charge was thought to be lacking, therefore, ( ) was thought to be lacking. ( ) thought that he was terminated because of that incident. KINNEY said the committee did not find that to be the case (p. 8).

KINNEY said that the committee concluded that ( ) was terminated for poor supervisory skills, not for one incident, but overall, over a period of time. The committee concluded that ( ) did have poor supervisory skills and should not be a supervisor. However, the termination procedure, the committee thought, was lacking, in that ( ) was not given direct communication that he was a poor supervisor. Therefore, ( ) was not given the opportunity to remedy whatever deficiencies he had as a supervisor. KINNEY's overall perception was that ( ) was terminated for being a poor supervisor. The committee thought that he was improperly terminated because the company had not followed what appeared to be the norm in this sort of thing. Therefore, the committee

AGENT'S NOTE: Exhibit 10, however, discloses that, "The Committee's investigation revealed that management terminated the Grievant's employment because they believed the Grievant had exhibited performance deficiencies and poor supervisory judgment in connection [ ]"

Regarding the word "testing," KINNEY said that did not have any great significance to him, and as to why it appeared there, he said, "I can't tell you either." KINNEY acknowledged that he wrote the paragraph, and thought that it "probably" got in there because that was part of the allegation. KINNEY thought that the second sentence is what should be significant. Regarding the "testing" aspect of the paragraph, KINNEY said, "I don't have a decent answer for you for that." KINNEY said that the issue had dragged on a long time. The committee had concluded that:

( ) KINNEY "wasn't really playing lawyer and putting something in for an appellate court to look at" (pp. 15 and 17).

Regarding the ( ) concerned the fact that ( )

KINNEY did not believe that any other portion of the

AGENT'S NOTE: Exhibit 10 also discloses that, "The Committee's investigation also revealed that the Grievant did not demonstrate the supervisory skills necessary for his position as a Supervisor."

KINNEY believed that paragraph explained the reason why ( ) was terminated and why management said that he was terminated. KINNEY thought that ( ) may have been a perfect candidate for firing, but he was not given a fair chance (p. 16).

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Regarding [redacted] allegation that he was threatened by NECCI and [redacted] if he lengthened the ESAS project or the outage, KINNEY recalled "that played very little part." As KINNEY recalled, [redacted] took his concern to his then vice president [DeBARBA] and, apparently, it was reconciled. [redacted] was told by [DeBARBA] that he would not be fired (p. 9).

#### Interview of NOYES (Exhibit 48)

NOYES was interviewed by OI on June 5, 1997, and stated substantially as follows:

NOYES has been the Vice President, Business Strategy, NU, since December 1995. Prior to that, NOYES was the Vice President, Comptroller. NOYES was a member of the Grievance Committee that reviewed [redacted] grievance. NOYES has participated on eight to ten Grievance Committees since he became an NU officer approximately 10 years ago.

The Grievance Committee's responsibility was to review the grievance of [redacted] and decide whether the relief that he requested, or some other relief, was appropriate (p. 8).

[redacted] was interviewed first, then the committee interviewed some of the people in the management chain. NOYES recalled that [redacted] NECCI, and DeBARBA, were interviewed. The committee also asked for some materials based upon questions that came up during the interviews (p. 9).

AGENT'S NOTE: KINNEY and SABATINO both advised that [redacted] was not interviewed by the Grievance Committee because of a scheduling conflict. KINNEY believed that the Grievance Committee had a pretty clear picture of the circumstances after talking to other individuals.

NOYES could not recall specific details, however, the general impression he had from NECCI was that [redacted] was not doing an adequate job as a supervisor, from an overall standpoint, and that was why [redacted] was fired (p. 13).

NOYES recalled that the committee reviewed [redacted] personnel file. What NOYES recalled the most was the review prior to [redacted] termination. NOYES characterized the review as very comprehensive and thorough. NOYES did not think that it was the kind of review, that he read as an outsider, that would suggest that the individual was in danger of losing their job for non-performance. NOYES said that was one of the things that bothered him a lot, that [redacted] performance could be [redacted] later. However, NOYES has seen that a lot, if it was a different supervisor, because everybody has a different standard of rating, and if one individual rates harder than the other, then that type of difference can be seen. NOYES acknowledged that probably was the case with [redacted] appraisal (p. 14).

NOYES said that the committee raised the issue of change in performance. The committee ascertained that there was another indication of performance, and that was how people were paid incentive compensation. One of the indications

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pointed out to the committee [during their interviews] was that [redacted] had gotten [redacted] incentive payment (pp. 15 and 16).

NOYES said that part of [redacted] complaint was that he thought that he was being treated differently than others. [redacted] raised the issue of the progressive discipline program in Nuclear. One of the points in [redacted] complaint was that he did not receive the progressive discipline. NOYES said that it was tough for him not to believe that [redacted] thought he was entitled to that treatment. That is how NOYES came to the conclusion that the process was flawed (pp. 16-19).

The Grievance Committee determined that [redacted] should not have been fired. NOYES did not think that [redacted] was enough of a message, having read [redacted] last performance review (pp. 20 and 21).

While he could not recall specifics, NOYES did recall that NECCI and DeBARBA were asked about the basis for [redacted] termination. NOYES was "convinced" that the basis for the termination was [redacted] overall supervisory capabilities. In the case of the [redacted] while they [management] felt there were problems with his overall group, [redacted] was not specifically fired for an event that occurred while he was [redacted]

Regarding [redacted] termination being associated with the ESAS project, NOYES said there was a discussion with NECCI and DeBARBA. The sense that NOYES got from [redacted] was that because [redacted] had never seen anyone fired for just generally not being a good supervisor, that was not a possibility in his mind. [redacted] was trying to "guess" at specific events that may have been the reason, but, instead, [redacted] had been caught up in a new system (p. 31).

#### Interview of SABATINO (Exhibit 49)

SABATINO was interviewed by OI on June 5, 1997, and stated substantially as follows:

SABATINO is Vice President, Wholesale Marketing, NU. He has been in that position since January 1993/1994. SABATINO has been employed by NU for 27 years. SABATINO was a member of the Grievance Committee that reviewed [redacted] termination grievance.

After the meeting with [redacted] where he explained his grievance, the committee interviewed the individuals that were in [redacted] management chain, and who had been involved in the decision to terminate him. There was a scheduling problem with the supervisor [redacted] and after speaking with NECCI and DeBARBA, the committee decided it was not necessary to speak to the supervisor (pp. 15 and 16).

According to SABATINO, NECCI told the Grievance Committee that [redacted] was a very weak supervisor who had not taken responsibility for the work that was under his supervision. There had been a long history of [redacted] not taking responsibility for the work under him, and it was finally determined that the department under him was "pretty fouled up" because of [redacted] poor [redacted]

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supervisory skills. The event that happened on the [redacted] which, according to SABATINO, [redacted] held out to be the reason why he was terminated, was really the final straw in a long series of things that were evidence of [redacted] lack of supervisory ability and taking responsibility for the work being performed under him. According to SABATINO, NECCI provided specific examples of [redacted] work, but SABATINO could not recall any of the examples. SABATINO thought that NECCI presented a "pretty convincing story" about [redacted] not being a good supervisor (pp. 17-19).

SABATINO advised that a review of [redacted] performance appraisals showed that they were pretty good, and noted that there had been a change in the supervisory structure above him [redacted] of his termination. The earlier reviews had been done under a different supervisor. When the change occurred, there was a "bit of a change" in viewpoint about the quality of [redacted] work. The most recent review pointed out [redacted] deficiency in his ability to monitor and control work (pp. 18 and 19).

SABATINO believes that either NECCI or DeBARBA spoke about what [redacted] perceived as a threat of termination regarding the ESAS project. SABATINO thought that the comment was characterized as people saying that "we" were screwing up and if "we" don't sort it out, "we" are all going to get fired (pp. 19 and 20).

According to SABATINO, NECCI told the committee that [redacted] did not take responsibility for what was going on [redacted] and did a very poor job of controlling the work process (p. 21).

SABATINO and the Grievance Committee members were uncomfortable with the fact that [redacted] performance was not documented better. SABATINO continued that it was somewhat "epidemic" at NU for a lot of the written paperwork to accentuate the positive, more so than documenting an individual's shortcomings. There is a reluctance at NU to put in an individual's performance file something that is negative (p. 21).

When the Grievance Committee started raising concerns that the paperwork did not seem as negative as the verbal description of [redacted] performance, the Grievance Committee asked if there was other documentation that would give a written indication that [redacted] was a poor performer. SABATINO said that other information was produced about the [redacted] had the [redacted] for the [redacted]

SABATINO felt that the Grievance Committee was unanimous that [redacted] was a weak performer, should have been fired, and that the company was better off without him. However, the Grievance Committee was uncomfortable with the process that had been followed and felt that there should have been some sort of remedy. The Grievance Committee believed that [redacted] was a poor supervisor and wanted a remedy to ensure that [redacted] did not come back into the company in a supervisory position (p. 26).

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AGENT'S NOTE: In his grievance (Exhibit 6, p. 3; and Exhibit 7, p. 2), [redacted] wrote, "I would like to be [redacted] . . ."

SABATINO read the section and said; based on that statement, he (SABATINO) would not come to the conclusion that [redacted] did not want to be a supervisor. SABATINO said that it indicated to him that [redacted] wanted to be in a position that was involved in [redacted], SABATINO did not recall if [redacted] indicated to the Grievance Committee, during his interview, that he did not want to be a supervisor (p. 28).

AGENT'S NOTE: Exhibit 10 discloses that, "The Committee's investigation revealed that management terminated the Grievant's employment because they believed the Grievant had exhibited performance deficiencies and poor supervisory judgment in connection with [redacted]"

SABATINO said that the pattern of evidence showed that [redacted] was a poor supervisor and the ATWS event in [redacted] was a final straw. SABATINO's recollection was that when [redacted] spoke before the Grievance Committee, the threat by NECCI or [redacted] was "almost like an afterthought" that [redacted] had "thrown into this whole thing" (pp. 33-38).

#### Interview of ROMER (Exhibit 50)

ROMER was interviewed by OI on April 30, 1997, and stated substantially as follows:

ROMER has been employed by NU since June 1992. He is a Human Resource Consultant, MP3.

Regarding [redacted] ROMER said that it was his role [redacted]

[redacted] indicated that he wanted something in [redacted] During the September time [redacted] ROMER indicated to [redacted] that he would "probably have to get back to him" on that. ROMER denied that he agreed with [redacted] to put his [redacted] because he thought that it was unusual. ROMER said there were two different processes; one is an [redacted] and the other was the culmination of a grievance process. The issues are separate. This was the completion of a grievance process, and the [redacted]

AGENT'S NOTE:

ROMER took [redacted] request back to Legal and received advice that was in agreement with his opinion that there were two separate issues. ROMER [redacted]

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indicated to Legal that he would probably need the grievance document, which was the outcome of the grievance process, so it could be shown to that the grievance had been completed and his grievance [i.e. termination] ) Normally, at the conclusion of the grievance process, there would be a determination. and ROMER would review that determination with ) The two documents would stand alone (pp. 34-36).

ROMER reviewed the grievance document with around December 1996. ROMER tried to "encourage" that this was what he had been looking for with regard to his request to have something on the record regarding the grievance determination. had initially requested that ROMER put something in his ROMER indicated to him, after his initial request, that "probably" would not happen, and the grievance determination would stand on its own. According to ROMER. did not pursue that initial request to have something in the after ROMER had explained to him what was going on. ROMER said there was no issue there to debate or discuss (pp. 41 and 42).

When ROMER sat down with and reviewed the grievance determination, according to ROMER, did not comment negatively, or object, or say that it did not cover the issues that he was concerned about. did indicate to ROMER that he was somewhat surprised that was mentioned in the grievance decision, and that it was an issue in the grievance determination (pp. 44 and 46).

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SUPPLEMENTAL INFORMATION

This Report of Investigation will be provided to the United States Attorney's Office, New Haven, Connecticut, for their review.

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Investigation Status Record, dated March 6, 1997.
2	Allegation Receipt Report, Allegation No. RJ-97-A-0029, dated February 4, 1997.
3	Transcript of Interview with ( ), dated January 16, 1997.
4	Letter to ( ) from ( ), dated August 2, 1995.
5	"Interview Checklist 2," undated, completed by ( )
6	Memorandum to KINNEY, NOYES, SABATINO, from FLEMING, dated December 13, 1995, with attachment.
7	Memorandum to KINNEY, NOYES, SABATINO, from TERRY, dated December 26, 1995, with attachment.
8	Interoffice Memorandum to KINNEY, NOYES, SABATINO, FLEMING, from TERRY, dated December 29, 1995.
9	"Grievance of ( ) undated and unsigned.
10	Memorandum to KINNEY, NOYES, SABATINO, from RICHTERS, dated December 13, 1996, with attachment.
11	( )
12	Transcript of Interview with ( ) dated March 12, 1997.
13	Transcript of Interview with ( ) dated April 29, 1997.
14	Transcript of Interview with ( ) dated May 13, 1997.
14A	Telephone Conversation Record with ( ) dated April 28, 1998.
15	Excerpts from ( ) Personal Log for the period November 1994 to December 1994, March 1996, December 1996, and February 1997.
16	"Northeast Utilities Root Cause Investigation, ( ) dated ( )
17	( ) from ( ) dated ( )
18	"NU Performance Management Program," for ( ) for Performance Year ( )

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- 19 "NU Performance Management Program," for( ) for Performance  
Year( )
- 20 Copy of a Memorandum to Unit 2 Managers & Supervisors, from NECCI,  
dated( )
- 21 Transcript of Interview with( ) dated May 12, 1997.
- 22 Transcript of Interview with( ) dated April 29, 1997.
- 23 Transcript of Interview with NECCI, dated June 27, 1997.
- 24 Transcript of Interview with NECCI, dated July 9, 1997.
- 25 Letter to Monroe, from PUTETTI, dated July 25, 1997, with  
attachment.
- 26 Memorandum to Nuclear Vice Presidents, Directors, Managers and  
Supervisors, from OPEKA, dated( ) with attachment.
- 27 Transcript of Interview with( ) dated July 9, 1997.
- 28 Interview Report of( ) dated September 3, 1997.
- 29 Transcript of Interview with CHATFIELD, dated June 20, 1997.
- 30 Letter to Monroe, from PUTETTI, dated July 22, 1997, with  
attachment.
- 31 Transcript of Interview with DeBARBA, dated December 9, 1997.
- 32 Transcript of Interview with BUSCH, dated March 10, 1998.
- 33 Transcript of Interview with FLEMING, dated March 17, 1998.
- 34 Copy of Fleming's "Communication Planner," with entries, dated  
( )
- 35 Copy of NU's "Managing for Behavior Change," prepared by Human  
Resources Group, dated April 1987.
- 36 Transcript of Interview with RICHTERS, dated April 9, 1998.
- 37 Transcript of Interview with NECCI, dated April 9, 1998.
- 38 Transcript of Interview with( ) dated April 9, 1998.
- 39 Transcript of Interview with( ) dated July 9, 1997.
- 40 Transcript of Interview with( ) dated June 18, 1997.

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- 40A Telephone Conversation Record with ( ) dated April 28, 1998.  
41 "NU Performance Management Program," for ( ) for Performance  
Year ( )  
42 Transcript of Interview with ( ) dated March 17, 1998.  
43 Memorandum to ( ) dated:  
44 Performance Appraisals for ( ) for performance years ( )  
45 Performance Appraisals for ( ) for performance years ( )  
46 Transcript of Interview with TERRY, dated June 17, 1997.  
47 Transcript of Interview with KINNEY, dated June 20, 1997.  
48 Transcript of Interview with NOYES, dated June 5, 1997.  
49 Transcript of Interview with SABATINO, dated June 5, 1997.  
50 Transcript of Interview with ROMER, dated April 30, 1997.

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