

August 10, 2000

Mr. Robert Norway
[Home Address Deleted
Under 10 CFR 2.790(a)]

Dear Mr. Norway:

In separate letters dated June 21, 2000, to you and the Niagara Mohawk Power Corporation (NMPC), I requested additional information on a potential document falsification issue raised in your letter of May 10, 2000, to William D. Travers, Executive Director for Operations. I have received your response dated July 3, 2000 and NMPC's response dated June 30, 2000.

After reviewing the responses, the NRC concludes that, based on the information provided, pursuing this issue further is not justified. In particular, you acknowledge that you can not recall what, if any, differences there are between the Employee Feedback Form provided by NMPC and the one you originally submitted. In referencing your draft Feedback Form, you specifically stated "I believed that since my list ended up to be longer that [sic] the form's space would allow, I may have deleted some of them, added other information, made the font smaller and removed the bullets on the final document." Further, when the form which you alleged is "fake" was earlier submitted as part of the Department of Labor (DOL) review of this matter, neither you nor your attorney objected to its inclusion in the record of that proceeding.

Additionally, based on the above conclusion, as well as a review of the rest of your May 10, 2000, letter and the Director's Decision issued by the NRC to you on November 28, 1999, the NRC staff has concluded that your May 10, 2000, letter does not, in whole or in part, meet the criteria for consideration under 10 CFR 2.206.

We also received a second letter dated July 3, 2000, in which you provided reprints of two additional letters that you stated were not used at the DOL hearing. The first is a letter to the Human Resource Department (HRD) dated February 19, 1994, and the second is addressed to Mr. Ralph Sylvia, dated February 26, 1994. You stated in your July 3, 2000, letter that the downsizing document (employee evaluation form) had been altered subsequent to Mr. Sylvia's response to your February 26, 1994 letter to him, and that NMPC was well informed that you were not on the 40 percent list. You also state that Mr. Sylvia or the Human Resources Department never disputed your claim that you were never on the 40 percent list. Based on that, you allege that their claim at the DOL hearing and at the May 10, 1996, enforcement conference that you were on the 40 percent downsizing list was based solely upon the falsified downsizing document and that NMPC management intentionally submitted falsified documents to the DOL and to the NRC.

We have reviewed Mr. Sylvia's response to you dated March 15, 1994. In that letter, Mr. Sylvia noted that the Director, HRD-Nuclear assisted in reviewing your concerns. He agreed that, initially, you were not on the list of employees to be assessed by the Review Board process. Mr. Sylvia further states that later, you were included in the group to be reviewed due to a decision to rotate employees from your work group. Your inclusion on the 40 percent list is, in

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part, the substance of the different handwriting observed by the DOL Administrative Law Judge (ALJ). Although Section III.1 of the earlier Director's Decision did not specifically refer to the 40 percent list, the subject of the different handwriting is addressed.

In order for either of your May 10, or July 3, 2000, letters to be considered under 10 CFR 2.206, they need to provide significant new information for the NRC to consider and they do not. Specifically, NRC staff review determined that the only completely new issue raised in the May 10th letter is the alleged falsification of the Employee Feedback Form. As stated above, NRC review of the responses to my request for additional information on that matter concludes that there is no basis for pursuing the issue any further. With regard to the other matters raised in your May 10th and July 3rd letters, they were adequately considered as part of the earlier Director's Decision and the enforcement action taken for the violation of 10 CFR 50.7 committed by NMPC when your employment was terminated as part of the 1994 rightsizing at Nine Mile Point Nuclear Station.

We recognize that you disagree with NMPC's views on many of the issues in this matter but, absent significant new information, the NRC continues to believe that the enforcement action it has previously taken adequately addresses the violation identified. Thank you for bringing these issues to the attention of the NRC.

Sincerely,

/RA by James G. Luehman Acting For/

R. W. Borchardt, Director
Office of Enforcement

Docket Nos. 50-022, 50-410

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