



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

1999-0098

3

RESPONSE TYPE

FINAL

PARTIAL

DATE

**AUG 16 2000**

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 **C** 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 **C** 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 \*

\$ **60.40**

\* See comments for details

- 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.

**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

AUG 16 2000

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

APPENDICES  
C

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 C     | <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 C  
RECORDS BEING WITHHELD IN PART

| <u>NO.</u> | <u>DATE</u> | <u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>            |
|------------|-------------|---|
| 1.         | 04/23/97    | OI Report of Investigation 1-96-014 (39 pages) EX. 7C |

CASE No. **1-96-014**

**United States  
Nuclear Regulatory Commission**



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# **Report of Investigation**

## **MILLSTONE UNIT 2:**

### **Discrimination Against a Senior Engineering Designer for Raising Concerns Discrepancies in MP2 Piping and Instrumentation Diagrams**

**Office of Investigations**

Reported by Of: **RI**

Information in this record was deleted  
in accordance with the Freedom of Information  
Act, exemptions 4 & 7C  
FOIA 99-98

dl

Title: MILLSTONE UNIT 2:

DISCRIMINATION AGAINST A SENIOR ENGINEERING DESIGNER FOR RAISING  
CONCERNS REGARDING DISCREPANCIES IN MP2 PIPING AND INSTRUMENTATION  
DIAGRAMS

Licensee:

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

Docket No.: 50-336

Case No.: 1-96-014

Report Date: April 23, 1997

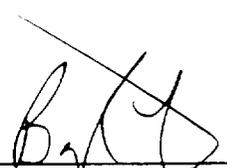
Control Office: OI:RI

Status: CLOSED

Reported by:

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

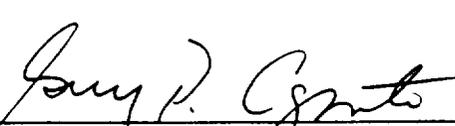
Reviewed by:

  
\_\_\_\_\_  
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, Director  
Office of Investigations

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RESULT IN ADVERSE ADMINISTRATIVE ACTION AND/OR CRIMINAL PROSECUTION.

TABLE OF CONTENTS

|   | <u>Page</u> |
|---|-------------|
| ORGANIZATIONAL CHART . . . . .  | 3           |
| LIST OF INTERVIEWEES . . . . .  | 5           |
| DETAILS OF INVESTIGATION . . . . .  | 7           |
| Applicable Regulations . . . . .  | 7           |
| Purpose of Investigation . . . . .  | 7           |
| Background . . . . .  | 7           |
| Interview of Allegor . . . . .  | 9           |
| Allegation (Discrimination Against HART for Raising Concerns<br>Regarding Discrepancies in Piping and Instrumentation<br>Diagrams (P&ID)) . . . . . | 14          |
| Review of Documentation . . . . .   | 14          |
| Testimonial Evidence . . . . .  | 15          |
| SUPPLEMENTAL INFORMATION . . . . .  | 33          |
| LIST OF EXHIBITS . . . . .  | 35          |

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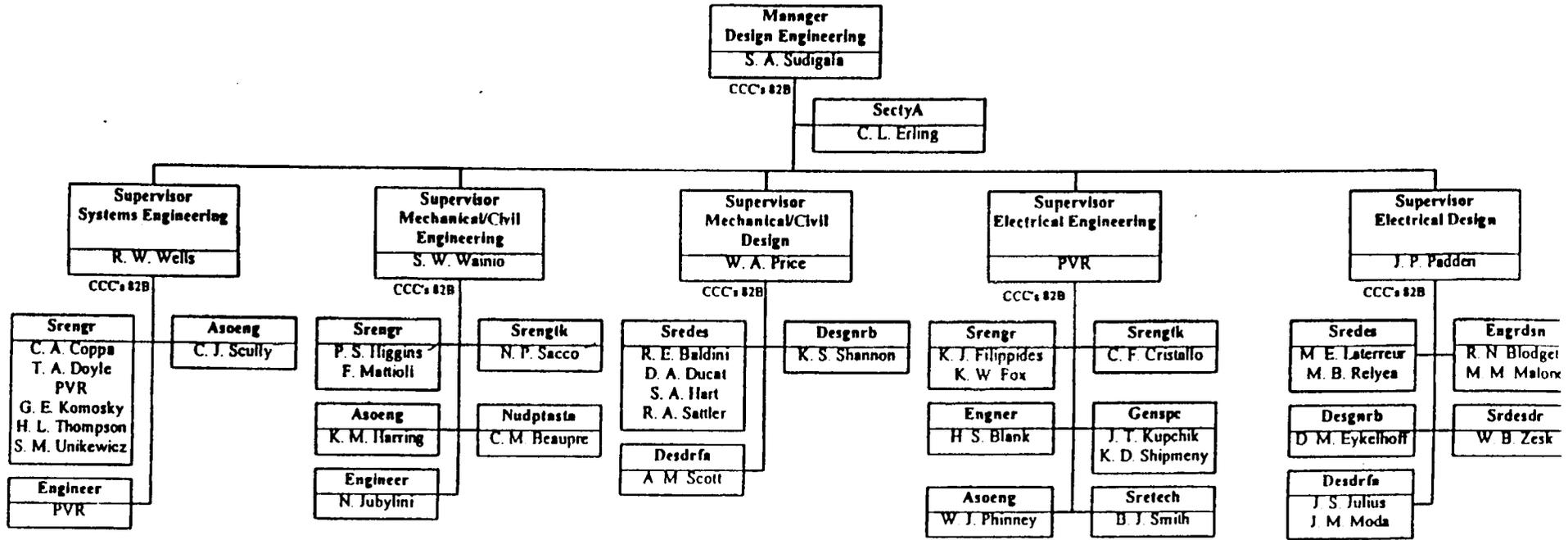
ORGANIZATIONAL CHART

Milestone Unit 2  
Engineering Services Department  
Design Engineering

BM93  
D Phillips  
X 2234 Milestone

Case No. 1-96-014

3



Systems, civil and mechanical activities in support of all plant design changes, project engineering and civil, mechanical design authority for the nuclear unit

Civil and mechanical activities in support of all plant design changes, project engineering and civil and mechanical design authority for the nuclear unit

Design and drafting activities in support of all plant civil and mechanical systems, equipment and structures, focal point for drawing creation/revision including plant initiated changes

EC&I activities in support of all plant design changes, project engineering, EC&I design authority for the nuclear unit

Design and drafting activities in support of all plant EC&I systems and equipment, focal point for drawing creation/revision including plant initiated changes

~~10CFR2.700 MATERIAL~~

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LIST OF INTERVIEWEES

|  | <u>Exhibit(s)</u> |
|--|-------------------|
| AHERN, Michael, Manager, Configuration Management Project, MP2,<br>former Manager, Design Engineering, Engineering Services<br>Department (ESD), MP2 . . . . . | 27                |
| BALDINI, Ronald E., Senior Engineering Designer, Mechanical<br>Design, Design Engineering, ESD, MP2 . . . . .  | 39                |
| BINKOWSKI, Michael, Technical Support Mechanical Engineer, MP2. . . . .  | 46                |
| DUCAT, David A., Lead Mechanical Designer, Design Engineering,<br>ESD, MP2 . . . . .   | 40                |
| FARACI, Thomas P., Senior Designer, Nuclear Utilities Services Company . . . . .   | 44                |
| FOSTER, Edwin R., Senior Engineering Technologist, Technical<br>Support, MP2 . . . . .   | 47                |
| HART, Stephen, former Senior Engineering Designer, Design<br>Engineering, ESD, MP2 . . . . .   | 18-20             |
| MALHOIT, Brian, Designer, Nuclear Utilities Services Company . . . . .   | 45                |
| NECCI, Raymond P., Director, Outage Services, NU, former MP2<br>Engineering Director . . . . .   | 37 & 38           |
| PRICE, William A., Lead Designer, Design Engineering, ESD, MP2 . . . . .   | 28-31             |
| SATTLER, Richard, Senior Civil Engineer, Design Engineering,<br>ESD, MP2 . . . . .   | 41                |
| SHANNON, Karen S., Designer B, Design Engineering, ESD, MP2 . . . . .  | 43                |
| SUDIGALA, Steven A., MP3 Outage Supervisor, NU, former Manager,<br>Design Engineering, ESD, MP2 . . . . .  | 33-36             |
| WELLS, Rik W., Supervisor, Design Engineering, MP2 . . . . .   | 21 & 23           |
| WILLIAMS, Ronald, Designer, Nuclear Utilities Services . . . . .   | 48                |
| WOODSBY, Bruce, Senior Engineer, Technical Support Department, MP2 . . . . .   | 49                |

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## DETAILS OF INVESTIGATION

### Applicable Regulations

10 CFR 50.5: Deliberate misconduct (1996 Edition)

10 CFR 50.7: Employee protection (1996 Edition)

### 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 Stephen A. HART, former Senior Engineering Designer, Design Engineering, Engineering Services Department (ESD), Millstone Unit 2 (MP2), Northeast Nuclear Energy Company (also known as Northeast Utilities System (NU)), was selected for termination in the NU work force reduction on January 11, 1996, because he raised safety concerns (Exhibit 1).

### Background

Exhibit 2 is a copy of a memorandum to Nuclear EVP, Direct Reports & Unit Directors, from R.M. KACICH, dated June 29, 1995, Subject: "Nuclear SBP Staffing Reductions." Attached to the memorandum was the 1996 and 1997 staffing reduction breakdown. The memorandum discloses that the staffing reductions matched the cumulative reduction of the 1996-2000 Nuclear Strategic Business Plan. The reductions for Engineering are shown as a total of 35, including a reduction of 3 employees in NECCI's MP2 Engineering Department.

Exhibit 3 is a copy of a memorandum to R.E. BUSCH, from E.M. RICHTERS, dated January 8, 1996, Subject: "Nuclear Workforce Reduction." The memorandum details the process for conducting the January 1996 nuclear workforce reduction.

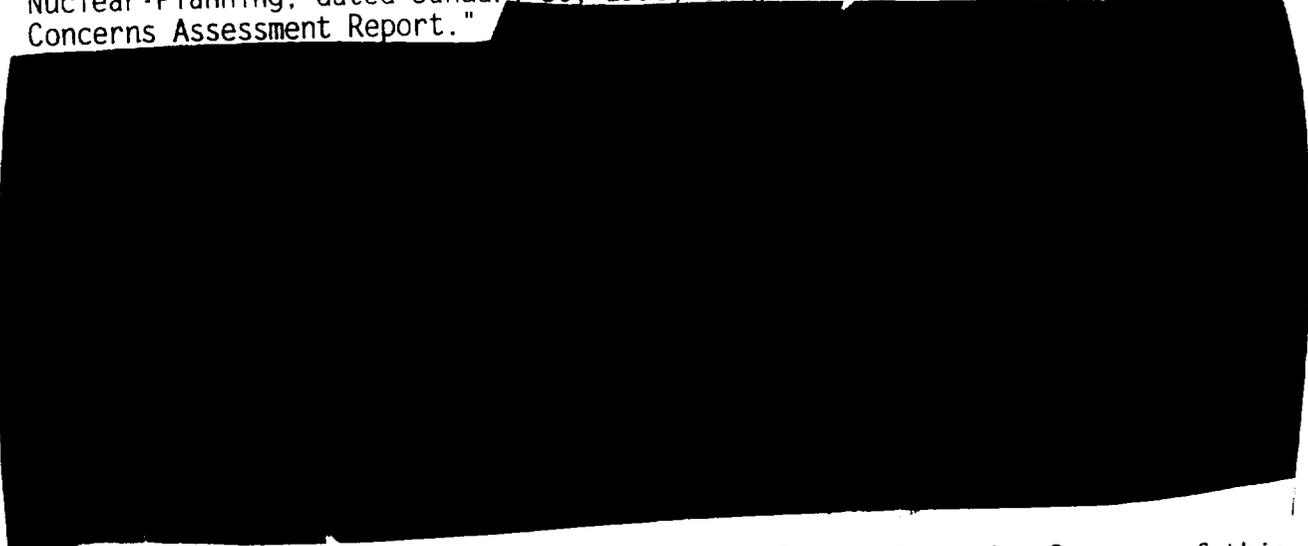
Exhibit 4 is a copy of a memorandum to Robert E. BUSCH, from Mary F. RILEY, Legal Department, NU, dated January 9, 1996, Subject: "Nuclear Workforce Reduction." The memorandum details the "added assurance" review done by the legal department for all employees recommended for termination who had previously raised safety concerns. Attached to the memorandum was a list of employees that were terminated on January 11, 1996. Also attached was a list of employees that received the "added assurance" review. 14

Exhibit 5 is a copy of a memorandum to D.B. MILLER, Jr., from R.J. DeLOACH, Director-Special Projects, dated January 29, 1996, Subject: "Workforce Reduction Feedback: Concerns and Lessons Learned." The memorandum provided feedback on the January 1996 work force reduction. The memorandum discloses that, "Popular perception is that 'yes men' are the valuable employees and that raising of technically sound positions but 'unpopular' ones may not be

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viewed as valuable." The memorandum also discloses several comments that were critical of how the downsizing process was conducted.

Exhibit 6 is a copy of a memorandum to T.C. FEIGENBAUM, Executive Vice President and Chief Nuclear Officer, NU, from M.D. QUINN, Manager, Nuclear-Planning, dated January 30, 1996, Subject: "Millstone Employee Concerns Assessment Report."

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

Exhibit 7 is a copy of a letter to BUSCH, from Wayne D. LANNING, Director, Millstone Oversight Team, NRC, dated February 8, 1996, Subject: "Employee Layoffs." The letter requested a detailed description of the process that was used in identifying the employees to be laid off in January 1996.

Exhibit 8 is a copy of a letter to LANNING, from FEIGENBAUM, dated February 15, 1996, Subject: "Millstone Nuclear Power Station, Units 1, 2 and 3, Response to Request for Information Regarding Employee Layoffs." The letter provides the basic information regarding the NU downsizing, including early retirements and the matrix process. Attached to the letter, and exhibited with this report (pp. 7-25) is an in-depth description of the downsizing process and instruction for completing the workforce reduction matrix (pp. 26-36). Also attached to the letter, but not exhibited in this report, is a chronological table reflecting significant events and their dates regarding the downsizing process.

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.

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The Task Force reviewed records related to approximately 95 individuals that were terminated in January 1996 and met with NU officials. The Task Force conducted an in-depth review of 21 of those individuals who were terminated, including interviews of the effected individuals and the supervisory personnel involved in the decisions to terminate 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 possible discrimination against HART.

Exhibit 9 is a copy of a letter to Dennis DAMBLY, Deputy Assistant General Counsel, for Materials, Antitrust & Special Proceedings, NRC, from Nancy R. KUHN, Counsel for NU, dated April 18, 1996, Subject: "The Northeast Utilities System -- Preliminary Investigation of 1996 Nuclear Workforce Reductions." The letter was submitted to assist the Commission with its "internal deliberations" on the status of the preliminary investigation. The letter discloses that there is "absolutely no evidence" in the documents furnished to the NRC Task Force, or the record of 44 interviews, that NU management designed or implemented the 1996 Nuclear workforce reduction with a systematic purpose of terminating employees who were perceived to be "whistleblowers."

Exhibit 10 is a copy of a letter to HART, from Eric DeBARBA, Vice President-Nuclear, Engineering Services Division, NU, dated January 9, 1996.

Interview of Allegor (Exhibits 18, 19, and 20)

HART was interviewed by the NRC Task Force on March 21, 1996 (Exhibit 18), and by OI on May 20, 1996, and October 29, 1996 (Exhibits 19 and 20). HART stated substantially as follows:

HART was employed by NU for almost 28 years. At the time of his termination, HART was a senior engineering designer. He reported to William PRICE, Supervisor, Mechanical/Civil Design, Design Engineering, MP2. PRICE reported to Steve SUDIGALA, Manager, Design Engineering, MP2. SUDIGALA reported to Raymond NECCI, Director, Design Engineering, MP2 (Exhibit 18, p. 6 and Exhibit 19, p. 9).

A piping and instrumentation diagram (P&ID) is a system diagram that shows all of the main piping and a portion of the instrumentation for a particular system. The P&IDs are considered to be operations critical drawings and are maintained in the control room (Exhibit 19, pp. 15-24).

Around February or March 1991, HART identified a number of discrepancies on the P&IDs for MP2. Around the same time, HART did a corresponding check between the P&IDs and the plant maintenance management system (PMMS). HART found that approximately 35% of the valves were missing or incorrect on either

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7C

the P&IDs or the PMMS list (Exhibit 18, pp. 12-15; Exhibit 19, pp. 15-24; and Exhibit 20).

In early 1992, HART brought the P&ID discrepancies to the attention of Joe CICHOCKI, Design Supervisor, MP2, and Rik WELLS, Engineering Design Supervisor, MP2. File PA84-024 documented the P&ID discrepancies and correspondence between the plant and his group, including the rejection letters by the plant indicating that they did not want to do the walk-downs at that time (Exhibit 19, pp. 24-26).

AGENT'S NOTE: CICHOCKI was replaced by PRICE.

The original PA84-024 P&ID project was to verify the P&IDs. The project ended up being a compilation of information from manual to CAD (computer aided design) drawings. The drawings were sent to the plant, and occasionally verified in part by some of the plant personnel. For his project, HART wanted his department to be in charge of a hand-over-hand walk-down of every pipe and fitting and item on the P&IDs, because he knew that there were things that were still not correct (Exhibit 19, pp. 29 and 30).

In the beginning, when HART tried to get the P&ID project started, PRICE was helpful to him. HART and PRICE went before a board [Nuclear Project Review Group (NPRG)] that made decisions on funding projects. HART's P&ID project proposal to the board was for a two year project. According to HART, DeBARBA was the head of the [NPRG]. The [NPRG] determined that the project was too expensive and turned it down. According to HART, DeBARBA said that the P&ID project would not be funded because of the cost. DeBARBA's final word was to try and work on the P&ID project, while also working on other projects. In response to an OI question, HART did not think that DeBARBA's request was reasonable, because the group was working overtime on the projects that they already had, and there was no spare time (Exhibit 18, pp. 26 and 27; and Exhibit 19, pp. 33, 34, and 39-41).

After the [NPRG] turned down the project, the INPO audit came out, and PRICE told HART that they might have the answer on how to make the P&ID project work. Section OA8.1 of the INPO audit described the problems with the P&IDs that HART had previously identified. The INPO audit picked two or three systems, one being the fire protection system. Following the INPO audit, HART heard from PRICE that the P&ID walk-down project was to go forward, and HART started working on the project in December 1993. HART opined that the INPO audit had "resurrected" the P&ID project (Exhibit 19, pp. 43-52 and Exhibit 20).

HART advised that, although the P&ID project was completed in the allotted amount of time (one year) and for the projected budget, the project took almost two years to complete. The delay was due to the prolonged MP2 outage in 1994. The plant engineers who reviewed the P&ID changes were tied up with outage projects, which delayed their review of the documents. HART said that the MP2 outage also affected his project because some of the technicians that were walking down the systems were called off to do other projects, when the

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outage started getting long and difficult. HART's P&ID walk-down project did not, on its own, affect or prolong the outage (Exhibit 18, pp. 16 and 17; and Exhibit 19, pp. 54-56).

HART said that the valve list was never completed because people were taken away from HART before the end of the project, and he had no people to compile the list. The valve list portion of the project was dropped, and as far as HART knows, there is no complete valve list. HART opined that the "big crunch" to complete the project probably sacrificed some of the reviews of the P&ID's that should have been done. HART felt that the bare minimum had been done on the P&ID project. HART suggested that NU's response to INPO should be checked to determine what NU committed to do. HART opined that the NU response would be a commitment to do the "bare minimum" (Exhibit 18, pp. 16 and 17; and Exhibit 20).

HART thought that one of the biggest problems with his group involved the prioritization of projects. HART, and others in his group, had requested that projects be prioritized and there was an effort made to do that. However, priority seemed to change on a weekly basis, so the whole idea of prioritization never came about. HART said that whatever [project] was hottest at the moment was jumped on, or "whoever screamed the loudest" got the group to work for them (Exhibit 18, p. 28).

HART never had the feeling that DeBARBA was upset with him for raising the issue of the discrepancies in the P&IDs. HART thought that SUDIGALA was not happy with the time that it took to do the project and the fact that 25% of the group workforce was not available for projects at times when he thought they should be available (Exhibit 19, pp. 57-59).

HART rarely interfaced with SUDIGALA, except for making progress reports on the P&ID project. Toward the end of 1995, when the outage was nearing completion, HART sensed that SUDIGALA wanted to get the project completed. The delay in the project caused a breakdown between HART and some of the people in his line of supervision. HART said that he and SUDIGALA "never saw eye to eye after that" (Exhibit 18, pp. 16 and 17; and Exhibit 19, pp. 85-87).

HART acknowledged that he had a relatively good association with PRICE. HART's only problem was that PRICE was a civil/structural designer and not very familiar with mechanical design. PRICE was inclined to group himself with the civil/structural people, and tended to leave the mechanical people "kind of out, by ourselves" (Exhibit 19, pp. 85-87).

In response to a question from OI, HART said that he got a lot of support from the plant people on the P&ID project. The only people that were in any way difficult were SUDIGALA and NECCI. NECCI never said anything directly to HART, but HART knew, through SUDIGALA, that NECCI was pushing to have the project completed because of the budget. HART characterized NECCI as extremely quiet and a very qualified engineer, but not a good manager. NECCI never interfaced with anyone. HART said that NECCI was "nonexistent" most of the time (Exhibit 19, pp. 88 and 89).

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AGENT'S NOTE: The performance management rating scale consists of Exceptional ("E"), Quality ("Q"), Needs Improvement ("NI"), and Unacceptable ("U").

Exhibit 14 is a copy of "NU Performance Management Program" appraisal for HART, for performance year 1993. The appraisal discloses that HART received

Exhibit 15 is a copy of "NU Performance Management Program" appraisal for HART, for performance year 1994. The appraisal discloses that HART received

Exhibit 16 is a copy of HART's mid-year 1995 "NU Performance Management Program" appraisal. The appraisal discloses that HART received

HART was not sure about the purpose of the mid-year appraisal. HART thought that it was an idea that was instituted by management, somewhere in NECCI's area. HART had the feeling that it had something to do with the January 1996 layoffs, but he could not "tie it together." HART thought that everyone in Nuclear received a mid-year evaluation. HART continued that there were the "usual rumors" that the mid-year appraisal was a way to pinpoint people that [management] wanted to lay off. HART was "surprised" [when he was terminated] because he had received a good mid-year review. HART did not remember anything bad on it (Exhibit 19, pp. 89 and 90).

AGENT'S NOTE: HART was given an opportunity to review his 1995 mid-year appraisal.

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Following his review of the mid-year appraisal, HART acknowledged that he [REDACTED]. According to HART, PRICE told him that rating was a carryover from the first review [1994 performance year] (Exhibit 19, pp. 90-92). 7C

AGENT'S NOTE: HART's performance appraisals for the performance years 1984-1992 were reviewed. [REDACTED] The performance appraisals are not an exhibit to this report, but will be maintained in OI files. 7C

Exhibit 11 is a copy of an NU "Workforce Reduction Matrix." The matrix discloses that HART was rated as the [REDACTED] in his group. The matrix involved the use of ten "Job Requirements/Competencies," with numerical weighing factors. 7C

Following a review of the matrix for his group, HART commented that he did not think he was that "much different" from DUCAT, and that all the numbers are "ridiculous." HART commented that there was "no logic." In response to a question from the NRC Task Force, HART said that he was [REDACTED]. HART said that one individual, SATTLER, who worked in his group, was given a [REDACTED] than HART on the [1995] mid-year appraisal (Exhibit 18, pp. 35 and 36; and Exhibit 19, pp. 95 and 96). 7C

AGENT'S NOTE: [REDACTED] 1995 mid-year appraisal was reviewed and disclosed that [REDACTED] received an "NI" in the competency of "Monitoring and Controlling Work Progress." [REDACTED] received "Q" in the remaining competencies (Exhibit 17). 7C

On January 11, 1996, the day he was terminated, HART and PRICE were called into NECCI's office. NECCI informed HART that he was to be separated from the company. According to HART, NECCI simply said that HART's position had been eliminated. Following the meeting, HART was escorted out of the building by PRICE to the Out Placement Center (Exhibit 18, pp. 31 and 32; and Exhibit 19, pp. 72-75).

In response to a question from OI, HART knew of no reason why anyone, other than SUDIGALA, would want to terminate him. HART continued that he did not know what it was that upset SUDIGALA so much about HART. HART personally thought that SUDIGALA was not "completely rational" all of the time (Exhibit 19, p. 97).

In response to a question from the NRC Task Force, HART said that he had not brought safety issues or concerns to the NRC. HART said that he was "going to" [about the P&IDs] until INPO came in and came up with the need to walk down the P&IDs. At that time, the "company backed down" and gave HART the project. HART has never brought any safety issues or concerns to the internal safety concern process at Millstone (Exhibit 18, p. 19).

HART offered several reasons that could have been involved in his termination; specifically, eye operations, age, he was the [REDACTED] in his 7C

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department, and finally, the P&ID project took him away from the rest of the work that was being done (Exhibit 19, p. 100).

In response to an NRC Task Force question, HART said that he did not think that he would be comfortable raising a safety issue. HART, added that there had been a lot of rhetoric in the last year or so saying that it was a safe thing to do, but knowing what has happened to individuals that have raised them in the last year or so, HART does not necessarily believe that is true (Exhibit 18, p. 39).

AGENT'S NOTE: The transcript incorrectly identifies NECCI as NIETCHE.

Allegation: Discrimination Against HART for Raising Concerns Regarding Discrepancies in MP2 Piping and Instrumentation Diagrams (P&ID)

Review of Documentation

The following documents were reviewed regarding the allegation that HART was discriminated against for raising concerns regarding discrepancies in P&IDs.

Exhibit 11 is a copy of an NU provided "Workforce Reduction Matrix," for Design Engineering 2. HART was rated the [REDACTED] 7C

Exhibit 12 is a copy of an undated document, "Steven A. Hart." [REDACTED] 7C

AGENT'S NOTE: Exhibit 12 was not a contemporaneous document for the matrix process or the termination process. It was not created prior to, or at the time of, HART's termination. The document was prepared by Human Resources after February 8, 1996, when NU was informed of the Task Force review and was requested to submit certain documents (Exhibit 13).

A document titled "Evaluation of Millstone Nuclear Power Station, Northeast Utilities," dated October 1992, disclosed that INPO conducted an evaluation of NU Millstone Power Station during the weeks of September 28 and October 5, 1992. The findings were presented to NU management at an exit meeting on November 20, 1992. On January 8, 1993, the findings, recommendations, and responses were discussed, and the responses were [REDACTED] 4

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AGENT'S NOTE: Due to the restricted distribution of the INPO final report, it is not an exhibit to this report. The INPO report will be maintained in OI files.

Exhibit 24 is a copy of a memorandum to Distribution, from C.F. McPHERSON, Subject: "NPRG NOTES - Meeting #93-06," dated August 30, 1993. The NPRG meeting took place on August 18, 1993. Among those present at the meeting were HART and PRICE. The memorandum discloses under "MP2-Upgrade of Piping & Instrument Diagrams," that, "This project was tabled. E.A. DeBarba commented that this work was level-of-effort. J.F. Bibby was asked to discuss this project with Jack Keenan" (p. 3).

Exhibit 25 is a copy of a memorandum to Distribution, from C.F. McPHERSON, Subject: "NPRG NOTES - Meeting #93-07," dated September 7, 1993. The NPRG meeting took place on August 24, 1993. Among those present at the meeting was WELLS. The memorandum discloses that, "Jeff Bibby informed the NPRG members that an outstanding commitment was completed by the withdrawal of the MP2-P&ID Update Project" (p. 2).

#### Testimonial Evidence

The following individuals were interviewed regarding the allegation that HART was discriminated against for raising concerns regarding discrepancies in P&IDs.

#### Interview of WELLS (Exhibits 21 and 23)

WELLS was interviewed by OI on September 11, 1996, and March 11, 1997, and stated substantially as follows:

WELLS has been a supervisor in MP2 Design Engineering since 1991. He has been employed by NU since August 1974.

WELLS was the supervisor for a combined group of engineers and designers during the period 1991 through 1993. At that time, HART reported to WELLS, through CICHOCKI, and then PRICE, who replaced CICHOCKI. During that time,

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*[Handwritten initials]*

WELLS observed HART, had direct knowledge of his performance, and was responsible for approving his performance reviews. During the period of 1993 until the beginning of 1996, WELLS would have seen some of the joint department products that HART "had a hand in." WELLS always felt that the quality of HART's work was very good. No one in WELLS' organization was terminated in the January 1996 reduction in force (Exhibit 21, pp. 42-44, 50, and 78-80).

Sometime in 1991, CICHOCKI and HART, identified to WELLS, that additional work was required to put the P&ID drawings into the condition they felt they needed to be in. They also indicated that there was some difficulty getting the funding for the project, and a "buy-in" from the plant. Significant resources would be needed to support the job from the plant, and the plant was not seeing it as a significant safety issue. The problems with the P&IDs were significant enough that the project should go forward. However, the nature of the discrepancies that HART described to WELLS were not what WELLS would have called an immediate nuclear issue (Exhibit 21, pp. 20-22; and Exhibit 23, pp. 28 and 29).

WELLS described the problem with the funding for the project as just the "normal difficult" time you have. There are always more jobs competing for projects than there were people and dollars available to do them. There is a continuing process of stacking up resources next to the jobs and determining which are the most important to do and with what timing (Exhibit 21, pp. 20-22).

WELLS acknowledged that the project proposal ultimately went to DeBARBA, and a committee that typically consisted of directors and managers. The project was terminated at that level, however, ultimately, the project was funded. WELLS recalled that INPO had also identified some discrepancies with the P&IDs and thought that the INPO finding would have helped with the funding of the project. WELLS felt that the project initially did not move ahead quickly because of the resource issue, funding, and/or manpower. WELLS said that he was sure that the commitment to INPO did not hurt, but he could not recall if that was the additional impetus that was needed to fund the project (Exhibit 21, pp. 23-33 and 35).

AGENT'S NOTE: NPRG meeting notes were located by counsel for the licensee, and provided to OI, between the time of WELLS' September 1996 OI interview, and his March 1997 OI interview.

WELLS clarified his previous OI testimony, in an attempt to establish a time line. WELLS recalled that there were two NPRG meetings where the P&ID project was discussed. In August 1993, the P&ID project went before the NPRG for funding, where it was tabled (Exhibit 24). At the second NPRG meeting, the project was withdrawn (Exhibit 25). WELLS thought that both meetings were in the August 1993 time frame. Sometime after the P&ID had been withdrawn from NPRG, PRICE told WELLS that he had learned that John RILEY, Operations, had some contractors doing P&ID walk downs, this in response to the INPO finding. WELLS suggested to PRICE that RILEY should be approached to see if they could

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use the contractor resources, and "marry up" with their project. According to WELLS, RILEY was very agreeable and immediately accepted the suggestion (Exhibit 23, pp. 5, 6, 24, and 14-18).

Exhibit 26 is a copy of a memorandum to Distribution, from W. E. BEAUREGARD, MP2 Engineering Department, Subject: "NPRG Approved Funding for PA84-024, MP2 Upgrade of P&IDs," dated March 1, 1994. The memorandum discloses that during the NPRG meeting on February 28, 1994, the funding for the upgrade of the P&ID project was approved. Attached to the memorandum is a "Need Statement, Millstone #2 - Updating of P&IDs and Support Documents (Ref. PA 84-024). Exhibit 26 discloses two Needs Statements. The second Needs Statement discloses signatures in the June and August 1993 time frame. The first discloses signatures in the February 1994 time frame. Both Needs Statements reference the INPO audit finding.

WELLS reviewed Exhibit 26. He said that sometime prior to the preparation of the June 1993 Needs Statement, he became aware that there was a finding from the INPO audit that dealt with the need to upgrade the P&IDs. WELLS asked PRICE, HART, or both, to put the INPO audit finding into the Needs Statement, because he thought it would provide additional justification about why the project should go forward. He could not specifically recall how he became aware of the INPO audit finding, but thought it was via the summary reports that were circulated around the company (Exhibit 23, pp. 7-10, and 36).

AGENT'S NOTE: Absent any other documentation, it appears that the INPO audit finding was included in both project funding presentations before the NPRG. The first project request was tabled in September 1993, and the second request was approved in February 1994.

When asked why the NPRG might not fund a project that had also been an INPO audit finding, WELLS said that it was because of the level of effort. It was a matter of how much activity had to take place and in what time frame. INPO found a small number of discrepancies. The question was, do we go after all the P&IDs immediately or does it take a year, two years or five years. If the discrepancies are not viewed as a major safety significant issue, the question would be what amount of resources should be put on the project immediately. It was not a question of if the project should be done, it was a question of what resources, and to what extent resources were put on the project immediately (Exhibit 23, pp. 26 and 27).

WELLS acknowledged that there was an understanding, for the purpose of personal development, that there was a need to be more accurate and complete in showing individuals' areas for improvement. Many times it would be done verbally. There was a kind of an initiative to go another step, and instead of being verbal, to actually put an "NI" in a category if it was appropriate. WELLS thought that there was considerable confusion about whether that was a "must do" type of thing. If a person did not deserve an "NI" in any category, then WELLS did not give one. WELLS had several people who had outstanding years, and it would have been lacking in credibility to give them an "NI" because there was no appropriate category. WELLS understood the

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initiative to have come from John OPEKA (Exhibit 22). WELLS knew there was a desire on the part of upper management to do a better job with performance reviews, and it would be "pretty hard" to say what prompted it (Exhibit 21, pp. 60-64).

In response to a question from OI, WELLS said that he could not see any relationship between HART's termination and his identification of discrepancies in the P&IDs (Exhibit 21, pp. 68 and 69; and Exhibit 23, p. 37).

#### Interview of AHERN (Exhibit 27)

AHERN was interviewed by OI on February 11, 1997, and stated substantially as follows:

AHERN has been employed by NU for 15 years. He is currently the Manager of the Configuration Management Project for MP2. AHERN has twice been the Manager of Design Engineering. The first time was from December 10, 1993, to sometime in 1994, the period when HART was a senior engineering designer (pp. 8 and 9).

When AHERN came to the MP2 Design Engineering Department, it was his practice to walk around and talk to the individuals who worked for him. According to AHERN, "each and every individual" in the Mechanical Design section, including PRICE and HART, advised him that a project to correct the P&IDs should be funded and undertaken. There were errors with the P&IDs, and while none of them seemed to be safety significant, the P&IDs should be corrected. AHERN undertook it to get the project approved and was successful (pp. 10 and 11).

AHERN acknowledged that he was aware that the previous attempt by HART and PRICE to fund the P&ID project had been refused by the NPRG. It was AHERN's opinion that the project was not funded previously, because a clear picture of the benefits and costs of the project had not been presented. Further, the discrepancies were not safety significant, and that would weigh heavily in a decision [to fund a project]. AHERN advised that DeBARBA was on the NPRG that ultimately approved the P&ID project (pp. 14-16).

After conferring with his counsel, AHERN wanted to "reaffirm" the importance of the P&ID project, and that the rather prompt reversal of the decision not to fund the project, speaks to management's support of the effort. In response to a question from OI, AHERN thought that INPO would have pointed out that the P&ID project was something that ought to be done. While that would count, AHERN said that it "wouldn't count a lot." AHERN thought that NU could have easily have addressed an INPO finding by pointing out that no safety significant issues had ever occurred, and NU used P&IDs all the time, so there was quite a low likelihood that a significant issue would occur (pp. 28 and 29).

AHERN advised that, over the years, he worked with HART occasionally. AHERN said that HART was: [REDACTED] 7C

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[REDACTED] 7C  
AHERN advised that when he was faced with completing the matrices as the Maintenance Department Manager, he certainly did not do them in a "vacuum." He would work not only with the individual supervisor, but other supervisors, to get an overall sense of things. When he filled out the matrices, they were not the result of his single opinion (p. 21).

AGENT'S NOTE: After conferring with his counsel, AHERN wanted to relay that the training for the completion of the matrix made it very clear that it was the manager's job to complete the matrix. AHERN wanted to "point that out" because he thought, but did not know, that SUDIGALA might have completed the matrix with less supervisory involvement. AHERN continued that knowing SUDIGALA as an extremely fair individual, AHERN personally believes that people would get a "very fair" evaluation from SUDIGALA (p. 27).

AHERN said that the P&ID project was a "beautiful example" of what "we" should be doing to support Operations. In response to a question from OI, AHERN said that he would "go the other way" as far as having any reason to believe that HART was terminated because of his involvement in the P&ID project. AHERN said that it "seems incredible," because HART's supervisor [PRICE] and AHERN, shared his views and got things changed around so that the project was supported. It seemed "amazing" to AHERN to hear about the investigation (p. 26).

#### Interview of PRICE (Exhibits 28, 29, 30 and 31)

PRICE was interviewed by the NRC Task Force on April 2, 1996, and by OI on September 12, 1996, February 11, 1997, and March 11, 1997. PRICE stated substantially as follows:

PRICE began working for NU in 1979, and has worked in Design Engineering since his employment with NU. PRICE is a Lead Designer, MP2 Design and Engineering Services Department, NU. He has been the supervisor of mechanical/civil design since 1992. PRICE reported to SUDIGALA at the time of HART's termination.

When PRICE became the supervisor in 1992, HART and PRICE discussed the need to walk down the newly-generated CAD P&IDs. PRICE believed that sometime in 1993 (nfi) a proposal was made to upper management regarding the P&ID walk-down project. The proposal was made before the NPRG, which was comprised of DeBARBA and unit directors that approve budget and resources. The response from the NPRG was that the P&IDs were substantially correct, and did not impact the safe operation of the plant. Due to resources and budgetary reasons, the project was not approved. In response to a question from OI, PRICE said that the discrepancies were not safety significant discrepancies, because they were not configuration discrepancies which could possibly cause an operator to jeopardize the operation of the plant (Exhibit 29, pp. 15-22).

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Following the NPRG declination on funding of the project, HART and PRICE made the focus of the project more limited, and ultimately the project was funded in 1993 (nfi). PRICE could not say why the project was funded by the NPRG the second time. In response to an OI question, PRICE clarified a statement to the NRC Task Force. PRICE said that the [REDACTED]

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PRICE recalled that during the evolution of the P&ID project, he would have probably taken someone off the P&ID project for an emergent issue at the plant. When asked by OI if removing the resources from the P&ID project extended the project, PRICE said no. The extension of the P&ID project was primarily due to System Engineering reviews (Exhibit 29, pp. 39-41; and Exhibit 30, pp. 40 and 41).

[REDACTED]

7C

Exhibit 16, HART's mid-year 1995 appraisal discloses that, [REDACTED]

[REDACTED]

7C

PRICE advised that line symbology was a problem that was discovered during the drafting process of the DCN. A keystroke sequence caused lines on the drawing, to change from solid to dashed. On the P&IDs this represented a change in configuration. PRICE said that once the problem was discovered, HART should have had an immediate revision to the drawing to correct the discrepancy. An ACR (adverse condition report) was initiated by DUCAT which indicated that the problem had actually happened ten days prior (Exhibit 32). When PRICE spoke to HART about the problem, HART's response was that there were pending DCNs that were in the review process for the same systems. HART felt that the need to expedite the correction of the line symbology could wait until those DCNs came back. PRICE acknowledged that HART's choice of action was not a good one, because the drawings represented a configuration that could be misunderstood by Operations personnel (Exhibit 31, pp. 10-13).

[REDACTED] who reported to PRICE at the time of the January 1996 downsizing, [REDACTED] were from the mechanical design discipline, and [REDACTED] were from [REDACTED]

7C

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civil/structural design discipline. As a result of the downsizing in January 1996, PRICE lost one individual, HART (Exhibit 28, pp. 7-9 and Exhibit 29, pp. 10-13).

Regarding his involvement in the matrixing of the individuals that reported to him, PRICE said that SUDIGALA spoke with him for several hours over the telephone on a Saturday (nfi). They discussed the evaluation process and the ranking for each individual [in PRICE's group]. SUDIGALA would take a category from the matrix, define it to PRICE, and then ask PRICE for a rating from one to ten on each individual. PRICE did not have performance appraisals or any records at the time of the discussion with SUDIGALA. PRICE acknowledged that he would have had the best day to day knowledge of what went on in his group, more so than SUDIGALA. PRICE advised that he could not substantiate the numbers within the matrix, but the rankings of [REDACTED] seemed to be in correct order with respect to performance (Exhibit 28, pp. 8 and 9; and Exhibit 29, pp. 70 and 92-93). 7C

In response to a question from OI as to whether HART was terminated in January 1996 because of his involvement in the P&ID project, PRICE responded "Absolutely not" (Exhibit 29, p. 94).

Interview of SUDIGALA (Exhibits 33, 34, 35, and 36)

SUDIGALA was interviewed by the NRC Task Force on April 4, 1996, and by OI on September 12, 1996, February 11, 1997, and March 11, 1997. SUDIGALA stated substantially as follows:

SUDIGALA has been employed by NU since February 1977. SUDIGALA has been acting as the Outage Supervisor, MP3, since July 1996. At the time of the January 1996 terminations, SUDIGALA was the Manager, MP2 Design Engineering.

SUDIGALA has known HART since 1994, when SUDIGALA joined the department. SUDIGALA knew HART's name prior to that time, however, he never had any direct working relationship with HART (Exhibit 33, pp. 21 and 22).

The training about how to complete the matrix was essentially a handout and overhead slides. The handout was the primary tool for performing a matrix review. SUDIGALA acknowledged that he read the handout, in its entirety, prior to completing any matrices. SUDIGALA acknowledged that during the training, management personnel were instructed to obtain the last two management performance reviews for all employees to be rated on a matrix. From what SUDIGALA could recall, there was no direction given to look at performance appraisals when completing the matrix. SUDIGALA was to appraise employees in accordance with the guidelines that had been given (Exhibit 33, pp. 37 and 38; and Exhibit 34, pp. 12-15).

SUDIGALA's understanding about the principal use of the performance appraisals was that they were for subsequent reviews beyond his evaluation, so that [reviewers] had documentation to look at. SUDIGALA did not review every individual's performance appraisal. When he was completing a matrix and had

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some ambiguity, wanted some clarification, or something to "refresh" his memory, he would look at a performance appraisal. SUDIGALA could not recall which performance appraisals he had reviewed or if he had looked at HART's when he completed the matrix for HART's group (Exhibit 33, pp. 14 and 15; and Exhibit 34, pp. 24 and 25).

SUDIGALA used his "general knowledge" of how an individual had performed and was currently performing, to complete a matrix. SUDIGALA's knowledge was obtained in a lot of "different ways." SUDIGALA said that the "long and the short of it" was that feedback is obtained from many places. The next biggest source of input for SUDIGALA regarding an individual's performance came from the supervisor, as it occurred during the year. SUDIGALA said that he was out with "all his people" every day, however, most of his time was spent interacting with supervisors. SUDIGALA acknowledged that he did not spend a lot of time with the designers on an individual level (Exhibit 34, pp. 27-30).

Following his completion of the matrices, done without input from his supervisors, SUDIGALA discussed the matrices with them to get their input. Following his conversations with supervisors, SUDIGALA knew that he changed some of the numbers on the matrices, but not a lot. SUDIGALA had no idea how many numbers changed, how the numbers changed, or for what individuals. SUDIGALA acknowledged that while he did discuss the matrix categories with supervisors, and did rely on some input from them, the rating was principally his evaluation, from whatever input that he decided to use (Exhibit 33, pp. 17 and 18; and Exhibit 34, pp. 30-35).

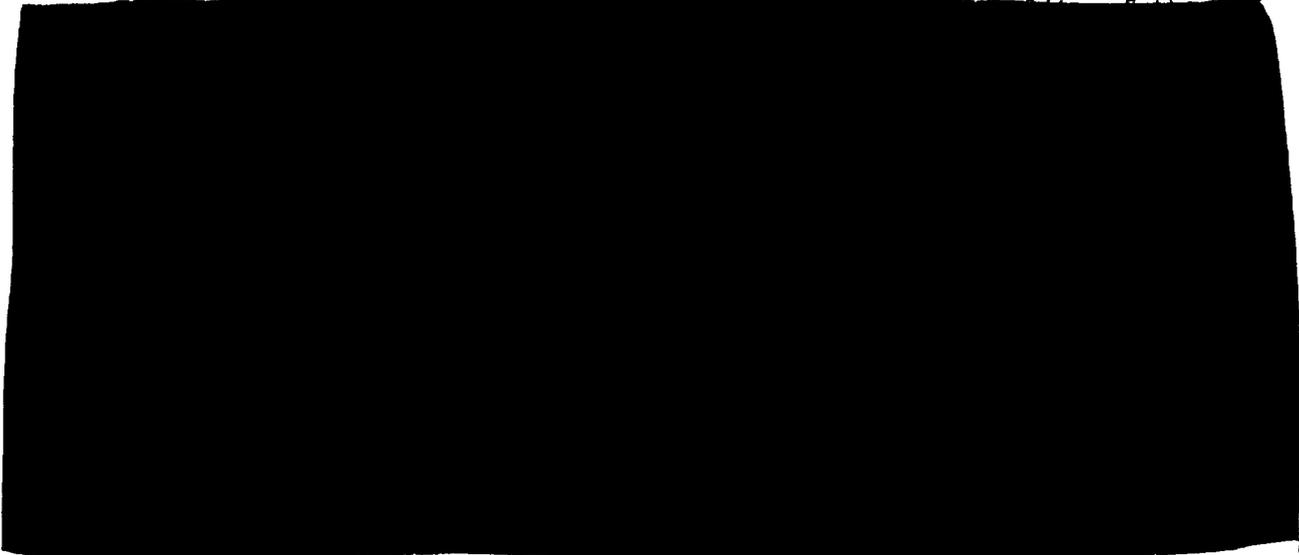
In response to a question from the NRC Task Force, SUDIGALA said that, for the most part, HART was working on one major project. SUDIGALA based his rating of HART on individual exchanges in the hallways and discussions on how he was doing, just general performance. SUDIGALA said that he also used some input from PRICE. SUDIGALA said that his standards were probably higher than most, and he did not do a match of the matrix against the appraisals. SUDIGALA rated all individuals by the same standards, which he applied uniformly to all individuals (Exhibit 33, pp. 23 and 24).

SUDIGALA advised that at the director's level of matrix review, an error was identified on the matrices that he had completed. The error concerned the mechanical tabulation of results for the total number of related years of experience. SUDIGALA said that he had not read in the handout that the "Related Experience" was capped at 10 years. SUDIGALA explained that he had to redo the matrices because of that error. SUDIGALA could not recall if the recalculation would have changed the "X" next to any of the names on the matrices. For HART's group, SUDIGALA could clearly remember that [REDACTED] and DUCAT did not receive an "X." SUDIGALA could not recall if either [REDACTED] or HART had received an "X" on the first matrix. Further, SUDIGALA could not recall if the first matrix for HART's group contained an "X." SUDIGALA denied that anyone had directed him that HART should be the individual to receive an "X" on the matrix (Exhibit 34, pp. 25-27 and 42-52; and Exhibit 36, p. 6).

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SUDIGALA was not in the department when the P&ID project came about. SUDIGALA knew that there had been some attempts for a period of time to get the project "on the books." Finally, driven by a couple of plant events, when it was found that configurations were not in accordance with the P&IDs, management decided to fund the project. SUDIGALA said that, at the time that he completed the matrix, he was not aware that HART had originally identified the project. SUDIGALA had heard that PRICE was very instrumental in the P&ID effort. SUDIGALA acknowledged that the INPO audit finding was a catalyst to fund the project (Exhibit 33, pp. 27-30).

Regarding HART's work on the P&ID project, SUDIGALA said that there had been many errors on the project. SUDIGALA characterized the errors as errors of omission. The errors started to "come to light" in 1995. Some of the errors that were found were reflective of work that HART had performed prior to 1995.



SUDIGALA opined that, in general, supervisors at NU did more coaching and counseling that was never reflected in reviews. "Very rarely" did SUDIGALA directly coach any of the individual workers in his department. SUDIGALA has gone directly to engineers and designers and said that he was not satisfied with performance. SUDIGALA could not "recall exactly" if he had gone to HART about his performance. SUDIGALA definitely talked to PRICE about some of the PIRs and ACRs that were generated, with respect to deficiencies that HART was responsible for (Exhibit 33, pp. 32 and 33).

SUDIGALA advised that the P&ID project took much longer than expected, due to "priorities set by management." The length of time with respect to completion of the project was not an issue for SUDIGALA. Many times SUDIGALA made decisions to defer the work on the P&ID project in lieu of higher priority work (Exhibit 33, pp. 28 and 29).

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Interview of NECCI (Exhibits 37 and 38)

NECCI was interviewed by OI on September 12, 1996, and March 11, 1997, and stated substantially as follows:

NECCI has been the Director, Outage Services, NU, since February 1996. NECCI's prior position was the Director of Engineering, MP2, from December 1993 to February 1996. As Director of Engineering, MP2, NECCI reported to DeBARBA.

NECCI acknowledged that when he reviewed the workforce reduction matrices completed by SUDIGALA, there was an error in SUDIGALA's calculation of the score for years of experience. NECCI identified the error during the multi-director meeting, "late in the process," in that the matrices had already been through several steps of review. NECCI believed that the error affected all of SUDIGALA's people. While NECCI could not recall who was identified with an "X" on the matrices that involved the calculation error, he would say that the numbers of individuals remained constant and that the individuals remained the same (Exhibit 37, pp. 19-23).

After a review of his earlier testimony to OI, NECCI recalled that at least two people, ██████████, had been identified with an "X" on the first matrix before the calculational error was corrected. Before the error was corrected, ██████████ was the lowest rated individual on the matrix, with ██████████ being the second lowest. At least one individual on the first matrix may have been "deselected" once the calculational error was corrected. NECCI believed that individual was ██████████. In making corrections to the error, ██████████ was clearly the lower of the four people on the matrix. Based upon the more positive performance that ██████████ had exhibited, the decision was made to take his "X" off the selection process matrix (Exhibit 38, pp. 5-12). 7C

AGENT'S NOTE: While unable to be verified, it is possible that SUDIGALA's error could have made ██████████ the lowest rated member of the group. 7C

NECCI had no reaction to the fact that HART was identified as the individual to be separated from the Mechanical Design group. NECCI was in general agreement with the conclusion of the matrix and the rating that HART received. NECCI was "very aware" that HART had been working on the P&ID discrepancies that he had identified for MP2. NECCI denied that HART's involvement in that project impacted on the decision wherein he was identified for termination (Exhibit 37, pp. 25 and 26).

NECCI came into the Engineering Department in January 1994. HART was already involved in the P&ID project. NECCI's knowledge of HART's involvement started at the point in time with the request for some additional funding to continue to do work on the P&ID project upgrades. During 1994, NECCI became more interested and familiar with the projects on the unit. By 1995, NECCI was pretty aware that there was an ongoing project that HART was involved with (Exhibit 37, pp. 26-29).

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HART's project was scheduled to be completed by the end of 1994, however, it was completed in late 1995. From a general sense, NECCI [REDACTED] 7C  
[REDACTED] The project was completed much slower than the original plan called for; it took longer to get the work done than originally called for. In response to a question from OI, NECCI advised the project took longer than originally called for due to both a combination of the person doing the work [HART] and the nature of the original scope of the plan. The unit was shut down during a good part of the project, and that may have produced roadblocks that the plan may not have anticipated when it was budgeted. On the other hand, NECCI [REDACTED] 7C

[REDACTED] NECCI said that he became concerned enough about the progress of the project to request that a monthly progress report be published (Exhibit 37, pp. 26-29).

AGENT'S NOTE: During an OI interview, HART denied that he was instructed to write a progress report because there had been no headway on the project. HART took it upon himself to generate monthly progress reports shortly after the project began (Exhibit 20). In response to questions from OI, PRICE said that he did not recall NECCI asking him for a P&ID progress report, but he did recall HART providing progress reports (Exhibit 30, pp. 40 and 41).

[REDACTED] 7C  
AGENT'S NOTE: HART said that NECCI's statement was not true, and opined that NECCI, as the manager, had to justify his final decision to terminate him (Exhibit 20). SUDIGALA acknowledged that he did not see any excessive indication of HART [REDACTED] 7C

In response to a question from OI, NECCI advised that the mid-year performance appraisal had always been a company position. All that NECCI did in 1994 was to start taking his supervisors "to task" for not doing what they were supposed to do, which was to provide a mid-year review. NECCI believed that in 1995 he told the supervisors in his department that their performance review would reflect the fact if their people did not get mid-year performance reviews (Exhibit 37, pp. 30 and 31).

NECCI did not know of any reason, other than performance, for HART's termination in January 1996. Since the NRC team inspection that looked at the 1996 reduction in force, NECCI has heard some "discussion and rumors" about what people perceive to be the reason for HART's termination, specifically, that HART was more interested in doing more work in the P&ID upgrade than the company funded. In response to questions from OI, NECCI was not aware of any

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safety concerns that HART had raised during his tenure at NU. NECCI was not aware of whether HART was a witness or participated in any investigations that the NRC had done with regard to other whistleblowers (Exhibit 37, pp. 32-34).

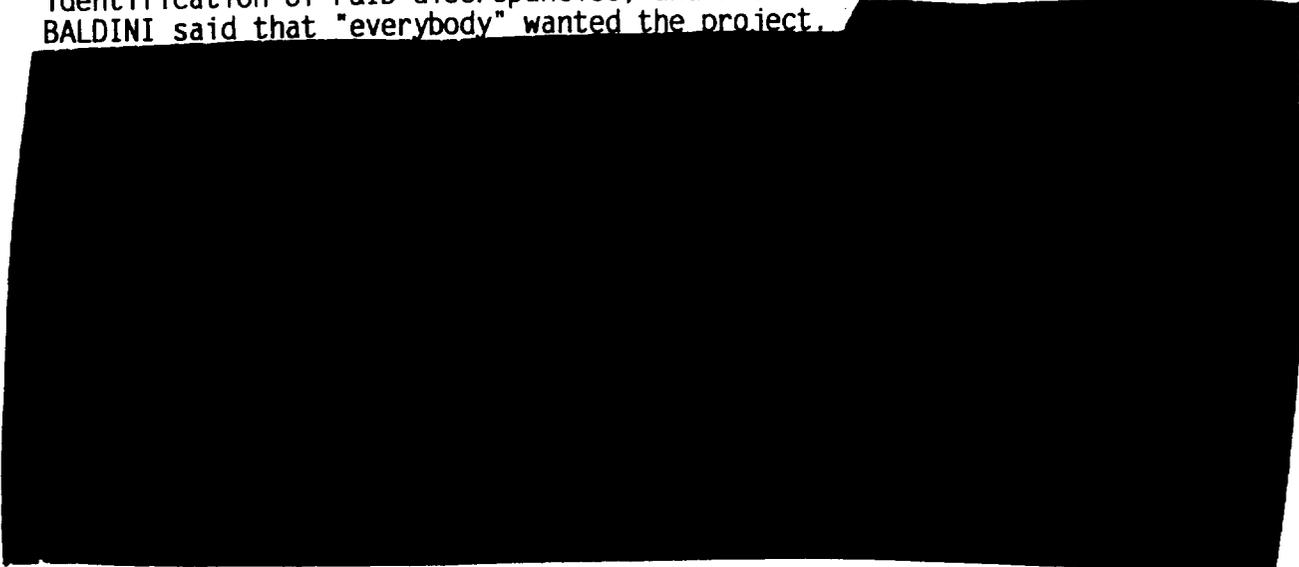
Interview of BALDINI (Exhibit 39)

BALDINI was interviewed by OI on July 18, 1996, and stated substantially as follows:

BALDINI has been employed by NU since November 1992. He has been a senior engineering designer, MP2 Mechanical Design, for approximately two years.

BALDINI acknowledged that he and HART were more aligned with the mechanical discipline of the group, and that DUCAT, PRICE, and SATTLER, were the civil side of the group (p. 6).

Regarding the January 1996 terminations, BALDINI said that no one ever told the group that HART had been chosen for termination. No one ever came back and got together with the group and said the group had lost people through the lay-off or gave names. BALDINI expected that an announcement would have been made identifying those who had been laid off, so "you would not be looking for them." In response to a question from OI, BALDINI said that he was not surprised that HART was the person in the group who was laid off. BALDINI had seen some aspects of HART's work that he did not think were "up to par." BALDINI did not believe that there was a correlation between HART's identification of P&ID discrepancies, and his selection for termination. BALDINI said that "everybody" wanted the project.



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Interview of DUCAT (Exhibit 40)

DUCAT was interviewed by OI on July 17, 1996, and stated substantially as follows:

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DUCAT has been employed by NU for 22 years. His current title is lead mechanical designer, MP2 Design Engineering Group. DUCAT has worked off and on with HART for 22 years.

About two weeks prior to the January 1996 downsizing, DUCAT said that he could feel that the pressure was on. DUCAT took work home, and said that "everybody" was facing the fact that the terminations were going to happen. Regarding HART's termination in January 1996, DUCAT said that he was surprised that someone was let go, in the sense that after talking about it for five years, it finally happened. As far as who the individual would be, DUCAT "didn't know," they had no idea who the individual would be (pp. 16-18).

HART was the project engineer for the P&ID project. HART was basically responsible for pulling different disciplines together, attending meetings, and interfacing with the Operations group. As the project engineer, HART was compiling the information statusing the systems that had been walked-down. DUCAT had to do a lot of corrections to P&ID drawings that had been reviewed by HART (pp. 20, 28-34 and 38).

As an example, a major drafting error was found on a P&ID that was in the control stations. The error was that all the electrical lines were shown as solid line, which designated them as piping, not an electrical line. According to DUCAT, HART was responsible for reviewing the drawings and making sure that they were accurate. DUCAT immediately wrote an ACR because the incorrect drawing had been sitting on [HART's] desk for ten days. DUCAT said that HART had reviewed the drawing and was aware of the problem. DUCAT knew this because MALHOIT, who had brought the error to DUCAT's attention, indicated that he had spoken to HART about the problem, but no action was taken. DUCAT initiated the ACR, and within three hours all the stations had the corrected P&ID. DUCAT spoke to HART about the error and learned that HART was in the process of making the correction, but there was "no sense of urgency." According to DUCAT, operationally, it was a significant mistake and the "sad part about it" was that it was a simple mistake on the computer. It is DUCAT's opinion that the ACR would have been written, and a flag should have gone up, and HART should have done more (pp. 20, and 28-38).

In response to a question from OI, DUCAT said that HART was "absolutely not" terminated because of his involvement in the P&ID project. "Everybody" was happy with the project, Operations was "overjoyed" with it, because they wanted to use it (p. 42).

DUCAT was not aware of HART having any conflict with SUDIGALA. According to DUCAT, HART's reputation about his work product was "conflicting" within the group. Some people thought that he had done an excellent job. DUCAT thought that he was "reasonable." [REDACTED] According to DUCAT, there was not a strong feeling in the group, cohesively saying that HART did a good job (pp. 46 and 47). 7C

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Interview of SATTLER (Exhibit 41)

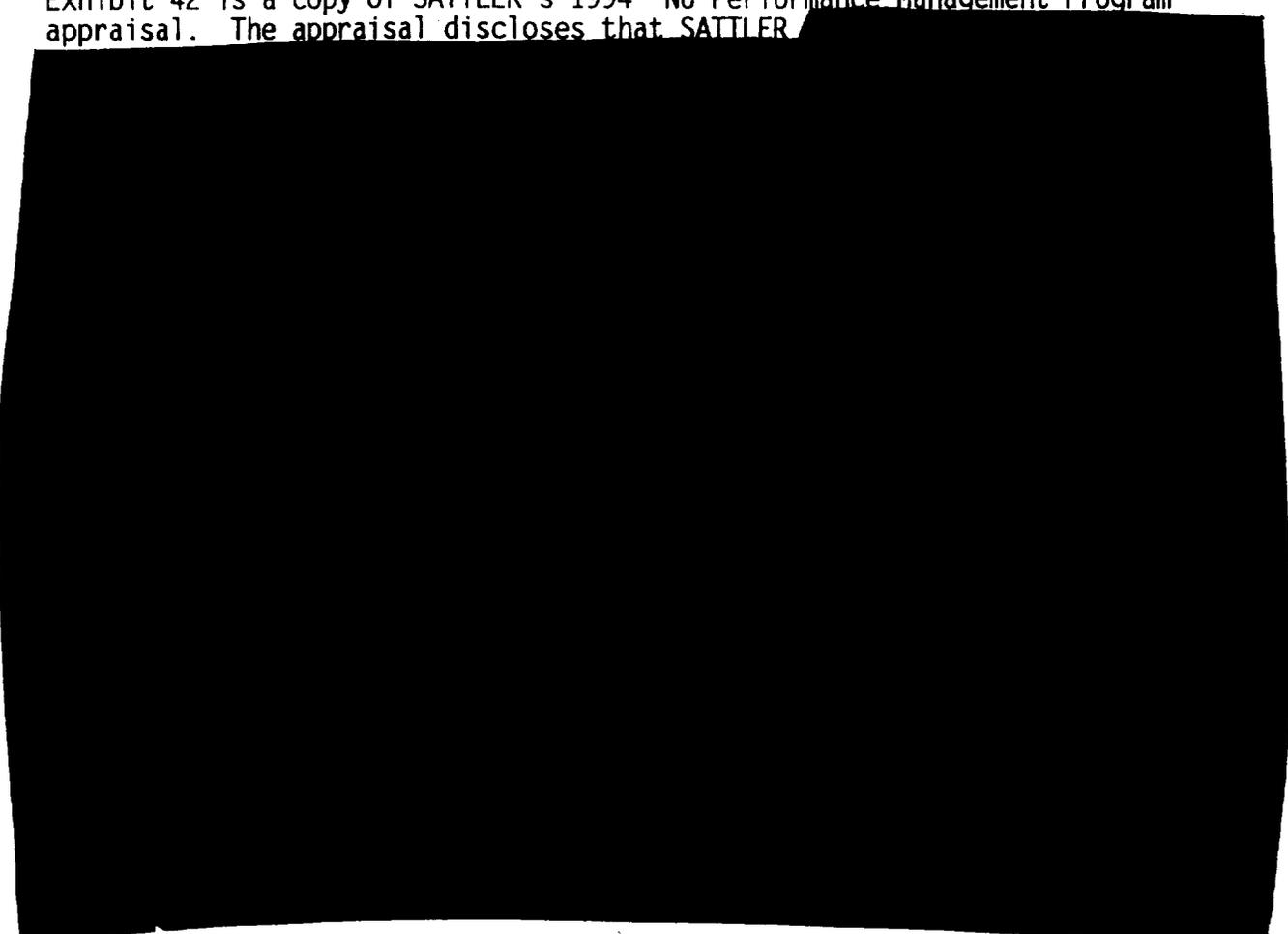
SATTLER was interviewed by OI on July 18, 1996, and stated substantially as follows:

SATTLER is a senior civil designer, MP2 Design Engineering, NU. SATTLER has been employed by NU since November 1982. SATTLER has worked with HART on and off for about ten years.

In response to a question from OI, SATTLER said that he was surprised that HART was chosen as the individual in the group to be terminated. HART was the senior, most knowledgeable person in the mechanical area. HART always seemed to show a very proficient and professional way of working (p. 7).

According to SATTLER, in 1994, there were a lot of people who were surprised by the appraisals. According to SATTLER, management was forcing supervisors to put NIs in the appraisals. The belief was that everyone could show some improvement in some areas. Many people received NIs with no basis, and without knowing that they had a short-coming (pp. 15 and 16).

Exhibit 42 is a copy of SATTLER's 1994 "NU Performance Management Program" appraisal. The appraisal discloses that SATTLER



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7C

SATTLER could not say if there was a connection between HART's termination and the fact that he had raised the issue of discrepancies on the P&IDs (p. 29).

According to SATTLER, SUDIGALA did not interact with the group. It was SATTLER's opinion that the matrix was very subjective and completed based on what SUDIGALA felt from simple observations. SATTLER further opined that the January 1996 layoffs were "very poorly done." If a supervisor could not be at least fifty percent of the equation, then "something is lacking," and they just want to "target people." SATTLER could not say if HART was targeted. SATTLER thought that it was "just personal" (pp. 35-37).

In response to a question about raising safety concerns, SATTLER responded that he was pretty comfortable and did not really have any fear of retaliation. SATTLER did not know how effective they [management] were about getting them resolved, but they did not mind hearing about them (p. 41).

#### Interview of SHANNON (Exhibit 43)

SHANNON was interviewed by OI on August 7, 1996, and stated substantially as follows:

SHANNON is a Designer B, in Design and Engineering, NU. She has been employed by NU for fifteen years. SHANNON is not in the same group as HART, but has worked with him on different projects for 15 years.

SHANNON advised that so many people knew that the P&IDs were not in good shape, it was "sort of common knowledge." SHANNON worked with Fred MALSBURY on the MP1 P&ID walk-down effort. SHANNON thought that financial considerations had changed greatly since the MP1 P&ID walk-down effort, and that when MP2 did get a project going, it was not going to be as big of an effort as MP1 (pp. 7 and 8).

SHANNON opined that PRICE, WELLS, and SUDIGALA, seemed to be receptive to the project, but she did not know what happened at their meetings, behind closed doors.

SHANNON said that HART's termination was not announced. SHANNON arrived late at a meeting, and someone said that HART had just been walked out of the

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7C

building. According to SHANNON, they tapped HART on the shoulder and told him "you're out of here."

[REDACTED] 7C

When asked if she could make a connection between HART's termination and the fact that he worked on the P&ID project, SHANNON said she did not think that was the case, there was something else, and thought it could have been politics; the "good old boy" system (pp. 33 and 34).

In response to a question from OI, SHANNON said that she had never felt that she could not come forward with a safety concern (p. 49).

#### Interview of FARACI (Exhibit 44)

FARACI was interviewed by OI on July 19, 1996, and stated substantially as follows:

FARACI is a senior designer and is employed by Nuclear Utilities Services Company (NUSC), Waterford, Connecticut. FARACI is the Millstone site representative for NUSC. At the time of the January 1996 terminations, FARACI worked with HART and PRICE's group.

FARACI said that he was "totally surprised" when HART was terminated in January 1996. FARACI said that he did not think the cuts would affect the group, because the manpower was very low, for their unit, in their discipline, compared to other units. Compared to MP3, the MP2 staff was very small (pp. 8 and 9).

FARACI advised that he was asked by PRICE to review drawings, some which had been previously checked by HART, and FARACI found some "major" discrepancies. FARACI knew that HART had checked the drawings because he had signed off on them as having checked them. FARACI recalled one drawing that was a "total disaster." FARACI said HART could not have checked the drawing, but he had signed off on it as having checked it. FARACI felt that HART took on too much responsibility with the P&ID project. He acknowledged that it was too much for one individual to review. FARACI thought that HART should have just run the project and should not have been checking the drawings (pp. 15-17).

AGENT'S NOTE: FARACI later clarified that the drawings he had reviewed were not part of the P&ID project (p. 19).

[REDACTED] 7C

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[REDACTED] 7C

In response to a question from OI, FARACI responded that he would find it hard to believe that HART was terminated because he had suggested the P&ID project, because management did not have to approve the project. FARACI said the project had been turned down once, and it had to have been more than just HART pushing for the project, because it would never have been approved. FARACI said that there was nothing that he could see that would lead him to believe that HART was terminated because he had suggested the P&ID project. FARACI thought that most people felt that the project was needed (pp. 23 and 24).

Interview of MALHOIT (Exhibit 45)

MALHOIT was interviewed by OI on August 9, 1996, and stated substantially as follows:

MALHOIT has been employed by NUSC for approximately four years, and he has been located at MP2 for that period of time.

MALHOIT worked with HART on the P&ID walk down project. The P&IDs are representations of the mechanical and electrical systems that compose the plant. They are critical to the safe operation of the plant and plant configuration control. Although HART may have identified discrepancies in the P&IDs, upper management set the standard for what would and would not get done on the project.

[REDACTED] 7C

Regarding the reasons for HART's termination, MALHOIT could not speculate if HART was terminated because of his identification of the discrepancies in the P&IDs or because of his performance.

Interview of BINKOWSKI (Exhibit 46)

BINKOWSKI was interviewed by OI on January 28, 1997, and stated substantially as follows:

BINKOWSKI has been employed by NU since approximately 1992. He is a technical support mechanical engineer, MP2. BINKOWSKI advised that HART was a designer and he worked with HART on different projects.

BINKOWSKI recalled that most of the work that he remembered doing with HART was on the P&IDs. The gist of those projects was that Design was to walk down whatever systems were designated to have a revision done on the P&IDs. After they walked down the system, the P&IDs were marked and they were given to

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Engineering for review. Engineering was to review the marked up drawings and return them to Design with comments. BINKOWSKI said that the P&ID project was one of the things to be done, however it was not a real high priority (pp. 13 and 14).

BINKOWSKI did not have too much problem with HART's work. If HART did give him something, and there was a mistake, BINKOWSKI would return it to HART, and HART would give it back. BINKOWSKI said that the problem was that his (BINKOWSKI) turn around was not as fast as HART's. BINKOWSKI opined that HART did good work (pp. 15-17).

BINKOWSKI acknowledged that he was kind of surprised when he heard that HART had been terminated. Every time that BINKOWSKI brought something to HART, HART did the work and returned it quickly (pp. 17 and 18).

#### Interview of FOSTER (Exhibit 47)

FOSTER was interviewed by OI on January 28, 1997, and stated substantially as follows:

FOSTER has been employed by NU since April 1973. FOSTER's current position with NU is senior engineering technologist, MP2 Technical Support. FOSTER has known HART for approximately 10 years.

FOSTER commented that he found HART's work on the P&ID project to be accurate. He had to make very few corrections (p. 10).

FOSTER was surprised that anyone was terminated in January 1996. FOSTER felt that all the members of HART's group were valuable, and with the work load and all the changes that needed to be made, he thought the group needed everyone. FOSTER had no reason to believe that HART was terminated because he identified discrepancies in the P&IDs (pp. 17-19).

AGENT'S NOTE: WILLIAMS (Exhibit 48) and WOODSBY (Exhibit 49) were also interviewed but provided no testimony of a substantive nature.

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SUPPLEMENTAL INFORMATION

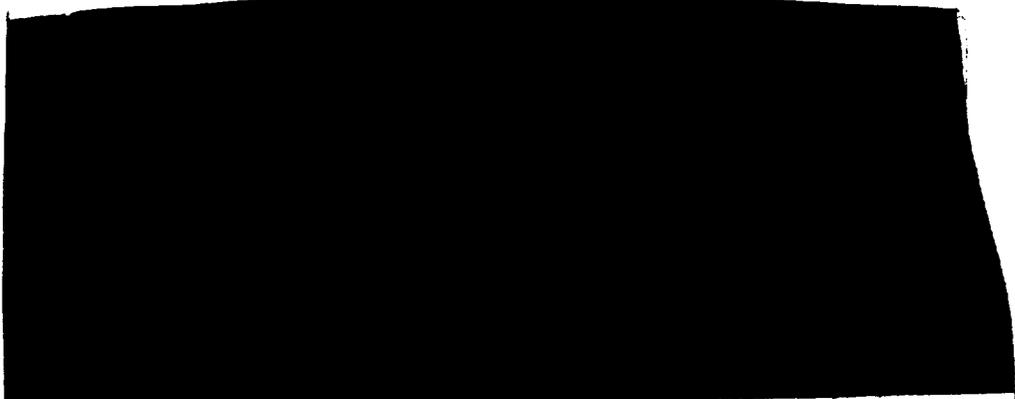
This Report of Investigation is being provided to the United States Attorney's Office, New Haven, Connecticut, for their review.

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LIST OF EXHIBITS

| <u>Exhibit No.</u> | <u>Description</u>  |
|--------------------|---|
| 1                  | Investigation Status Record, dated April 30, 1996.  |
| 2                  | Copy of a memorandum to Nuclear EVP, Direct Reports and Unit Directors, from KACICH, dated June 29, 1995, with attachments. |
| 3                  | Copy of a Memorandum to BUSCH, from RICHTERS, dated January 8, 1996.  |
| 4                  | Copy of a Memorandum to BUSCH, from RILEY, dated January 9, 1996, with attachments.   |
| 5                  | Copy of a Memorandum to MILLER, from DeLOACH, dated January 29, 1996.   |
| 6                  | Copy of a Memorandum to FEIGENBAUM, from QUINN, dated January 30, 1996, with a section of the attachment.                   |
| 7                  | Copy of a Letter to BUSCH, from LANNING, dated February 8, 1996.  |
| 8                  | Copy of a Letter to LANNING, from FEIGENBAUM, dated February 15, 1996, with sections of the attachments.                    |
| 9                  | Copy of a Letter to DAMBLY, from KUHN, dated April 18, 1996.  |
| 10                 | Copy of a Letter to HART, from DeBARBA, dated January 9, 1996.  |
| 11                 | Copy of "Workforce Reduction Matrix," for HART's group, dated December 18, 1995.  |
| 12                 | Copy of an undated document titled "Steven A. Hart."  |
| 13                 | Letter to Monroe, from PUTETTI, dated October 23, 1996.   |
| 14                 |   |
| 15                 |   |
| 16                 |   |
| 17                 |   |

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- 18 Transcript of Interview with HART, dated March 21, 1996.
- 19 Transcript of Interview with HART, dated May 20, 1996, with attachments.
- 20 Interview Report of HART, dated October 29, 1996, with attachments.
- 21 Transcript of Interview with WELLS, dated September 11, 1996.
- 22 Copy of an interoffice memorandum, from OPEKA, dated April 2, 1995.
- 23 Transcript of Interview with WELLS, dated March 11, 1997.
- 24 Copy of a Memorandum to Distribution, from McPHERSON, dated August 30, 1993, with attachment.
- 25 Copy of a Memorandum to Distribution, from McPHERSON, dated September 7, 1993, with attachment.
- 26 Copy of a Memorandum to Distribution, from BEAUREGARD, dated March 1, 1994, with attachment.
- 27 Transcript of Interview with AHERN, dated February 11, 1997.
- 28 Transcript of Interview with PRICE, dated April 2, 1996.
- 29 Transcript of Interview with PRICE, dated September 12, 1996.
- 30 Transcript of Interview with PRICE, dated February 11, 1997.
- 31 Transcript of Interview with PRICE, dated March 11, 1997.
- 32 Copy of "Adverse Condition Report, ACR# 003098, dated July 8, 1995, with attachment.
- 33 Transcript of Interview with SUDIGALA, dated April 4, 1996.
- 34 Transcript of Interview with SUDIGALA, dated September 12, 1996.
- 35 Transcript of Interview with SUDIGALA, dated February 11, 1997.
- 36 Transcript of Interview with SUDIGALA, dated March 11, 1997.
- 37 Transcript of Interview with NECCI, dated September 12, 1996.
- 38 Transcript of Interview with NECCI, dated March 11, 1997.
- 39 Transcript of Interview with BALDINI, dated July 18, 1996.

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- 40 Transcript of Interview with DUCAT, dated July 17, 1996.  
41 Transcript of Interview with SATTler, dated July 18, 1996.  
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43 Transcript of Interview with SHANNON, dated August 7, 1996.  
44 Transcript of Interview with FARACI, dated July 19, 1996.  
45 Interview Report of MALHOIT, dated August 9, 1996.  
46 Transcript of Interview with BINKOWSKI, dated January 28, 1997.  
47 Transcript of Interview with FOSTER, dated January 28, 1997.  
48 Transcript of Interview with WILLIAMS, dated August 7, 1996.  
49 Transcript of Interview with WOODSBY, dated January 28, 1997.

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