

October 2, 2000

EA-00-215

Mr. Michael A. Balduzzi  
Vice President, Operations  
Vermont Yankee Nuclear Power Corporation  
185 Old Ferry Road  
Brattleboro, Vermont 05302-7002

**SUBJECT: ALLEGED DISCRIMINATION OF A VERMONT YANKEE CONTRACT  
EMPLOYEE**

Dear Mr. Balduzzi:

On March 30, 2000, the U.S. Department of Labor's (DOL's) Occupational Safety & Health Administration (OSHA) in Concord, New Hampshire, received a complaint from a former contract employee at Vermont Yankee. The former contract employee alleged that his contract was terminated because he had raised safety concerns while performing his duties at Vermont Yankee. In response to that complaint, OSHA conducted an investigation, and in a letter dated August 29, 2000, the Director of the OSHA Area Office in Concord found that the evidence obtained during its investigation indicated that the employee was engaged in a protected activity within the scope of the Energy Reorganization Act and that discrimination as defined and prohibited by the statute was a factor in the actions which comprised his complaint.

Although you have appealed this OSHA finding to the DOL Administrative Law Judge (Case 00-ERA-037), the NRC is concerned that a violation of the employee protection provisions set forth in 10 CFR 50.7 may have occurred and that the actions taken against this former contract employee may have had a chilling effect on other licensee or contractor personnel.

Accordingly, pursuant to sections 161c, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR 50.7, in order for the Commission to determine whether your license should be modified, suspended or revoked, or other enforcement action taken to ensure compliance with NRC regulatory requirements, you are required to provide this office, within 30 days of receipt of this letter, a response in writing and under oath or affirmation that describes:

1. Your position regarding whether the actions affecting this individual violated 10 CFR 50.7 and the basis for your position, including the results of any investigations you may have conducted to determine whether a violation occurred. You may reference, as appropriate, any prior correspondence with the NRC on this matter.
2. Actions you have already taken or plan to take to assure that this matter is not having a chilling effect on the willingness of other employees to raise safety and compliance concerns within your organization and, as discussed in NRC Form 3, to the NRC.

We recognize that you may not believe unlawful discrimination has occurred. Regardless of your answer to item 1 above, we request that you consider the need to address the *possible* chilling effect that an ongoing issue of this type may have on other employees.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and your response will be made available to the Public. Therefore, your response should not, to the extent possible, include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public. If personal privacy information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the personal privacy-related information and a redacted copy of your response that deletes the personal privacy-related information. Identify the particular portions of the response in question which, if disclosed, would create an unwarranted invasion of personal privacy, identify the individual whose privacy would be invaded in each instance, describe the nature of the privacy invasion, and indicate why, considering the public interest in the matter, the invasion of privacy is unwarranted. If you request withholding on any other grounds, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

After reviewing your response, the NRC will determine whether enforcement action is necessary at this time to ensure compliance with regulatory requirements. If you have any questions in this matter, please contact Glenn Meyer of my staff at (610) 337-5211.

Sincerely,

*/RA/*

Hubert J. Miller,  
Regional Administrator

Docket No. 50-271  
License No. DPR-28

Mr. Michael A. Balduzzi

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cc:

R. McCullough, Operating Experience Coordinator - Vermont Yankee

G. Sen, Licensing Manager, Vermont Yankee Nuclear Power Corporation

D. Rapaport, Director, Vermont Public Interest Research Group, Inc.

D. Lewis, Esquire

D. Katz, Citizens Awareness Network (CAN)

M. Daley, New England Coalition on Nuclear Pollution, Inc. (NECNP)

State of New Hampshire, SLO Designee

State of Vermont, SLO Designee

Commonwealth of Massachusetts, SLO Designee

David C. May, DOL - OSHA Area Director

Mr. Michael A. Balduzzi

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