

June 11, 2001

EA-01-013

Dr. Richard L. Wallace, Chancellor
University of Missouri-Columbia
105 Jesse Hall
Columbia, Missouri 65211

SUBJECT: APPARENT VIOLATION OF EMPLOYEE PROTECTION REQUIREMENTS -
UNIVERSITY OF MISSOURI-COLUMBIA RESEARCH REACTOR (OFFICE OF
INVESTIGATIONS REPORT NO. 4-2000-030S)

Dear Dr. Wallace:

This is in reference to an apparent violation of Nuclear Regulatory Commission (NRC) requirements in 10 CFR 50.7 prohibiting discrimination against employees who engage in protected activities. We are concerned that a manager at the University of Missouri-Columbia Research Reactor (MURR) may have discriminated against a former MURR employee.

The apparent violation of 10 CFR 50.7 involves a former MURR senior research scientist who in a letter to the Provost dated May 24, 1999, described a discussion he had had with a Department of Energy (DOE) official that the senior research scientist interpreted as a DOE concern regarding the level of commercial activity at the MURR. As a result of writing this letter to the Provost, the senior research scientist was given an oral warning, as documented in a letter dated July 7, 1999, from a MURR manager. In addition, the oral warning letter contained a statement that the senior research scientist is "not authorized to discuss MURR management, priorities, etc. with any governmental [state or federal] officials." Based on the NRC's review of the circumstances surrounding these events, it appears that the senior research scientist engaged in a protected activity, that adverse action was taken against him for engaging in the protected activity, and that the warning letter contained statements that appear to prohibit, restrict, or otherwise discourage the senior research scientist from participating in protected activities. Therefore, it appears that MURR may have violated 10 CFR 50.7. A factual summary of the apparent 10 CFR 50.7 violation is enclosed with this letter.

This apparent violation is being considered for escalated enforcement action in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Action" (Enforcement Policy), NUREG-1600. The current Enforcement Policy is on the NRC's Web site at www.nrc.gov/OE. The NRC is not issuing a Notice of Violation at this time; you will be advised by separate correspondence of the results of our deliberations on this matter. Also, please be aware that the characterization of the apparent violation described in this letter may change as a result of further NRC review.

A closed predecisional enforcement conference to discuss this apparent violation will be scheduled for a mutually agreeable date at the Holiday Inn Select Executive Center in Columbia, Missouri. This conference will be closed to public observation in accordance with Section V of the Enforcement Policy and will be transcribed.

The decision to hold a predecisional enforcement conference does not mean the NRC has determined that a violation has occurred or that enforcement action will be taken. This conference is being held to obtain information to assist the NRC in making an enforcement decision. The conference is an opportunity for the University of Missouri-Columbia to provide its perspectives on (1) the severity level of the apparent violation, (2) the application of the factors that the NRC considers when it determines the amount of a civil penalty that may be assessed in accordance with Section VI.C.2 of the Enforcement Policy, and (3) any other application of the Enforcement Policy to this case, including the exercise of discretion in accordance with Section VII.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room).

Please contact Mr. Ledyard B. Marsh at 301-415-1168 if you have any questions. We appreciate your cooperation.

Sincerely,

/RA/

David B. Matthews, Director
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

Docket No. 50-186

License No. R-103

Enclosure: Factual Summary

cc w/enclosure:

Please see next page

University of Missouri-Columbia

Docket No. 50-186

cc:

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Associate Director
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Intergovernmental Cooperation
and Special Projects
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102

FACTUAL SUMMARY

The Office of Investigations (OI) report for Case No. 4-2000-030S involves a former senior research scientist employed by the University of Missouri-Columbia Research Reactor (MURR). On May 24, 1999, the senior research scientist wrote a letter to the Provost about the issue of researchers paying for access to MURR through the imposition of charges for the use of neutron beams. The letter summarized a phone conversation between the senior research scientist and an official at the Office of Technology at the Department of Energy (DOE). The letter discussed the senior research scientist's perception of the DOE official's concern with the level of commercial activities at MURR.

On July 7, 1999, a manager at MURR issued a letter of "Disciplinary Action—Second Oral Warning" to the senior research scientist. The letter indicated that the warning was issued because the senior research scientist had called DOE and discussed the level of commercial activity at MURR without authorization of the MURR Director, MURR or the University. The warning letter stated that the conversation with the government official clearly exceeded the authority of the senior research scientist. The warning letter stated that the senior research scientist was "not authorized to discuss MURR management, priorities, etc. with any governmental [state or federal] officials."

Based on the evidence developed during the investigation, OI determined that the senior research scientist engaged in a protected activity when he interpreted the DOE official's statements as a DOE concern and forwarded this concern to the Provost in the letter of May 24, 1999; that the manager at MURR was aware of the protected activity because he had received a copy of the May 24, 1999, letter; that the warning of July 7, 1999, constituted an adverse action against the senior research scientist; and that it appears that the adverse action was in response to the protected activity.

Dr. R. L. Wallace

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Please contact Mr. Ledyard B. Marsh at 301-415-1168 if you have any questions. We appreciate your cooperation.

Sincerely,

/RA/

David B. Matthews, Director
 Division of Regulatory Improvement Programs
 Office of Nuclear Reactor Regulation

Docket No. 50-186
 License No. R-103

Enclosure: Factual Summary
 cc w/enclosure:
 Please see next page

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