

November 9, 2001

EA-01-258

Mr. M. Reddemann
Site Vice President
Kewaunee and Point Beach Nuclear Plants
Nuclear Management Company, LLC
6610 Nuclear Road
Two Rivers, WI 54241

SUBJECT: EXERCISE OF ENFORCEMENT DISCRETION
[OFFICE OF INVESTIGATIONS REPORT NO. 3-2000-018S]

Dear Mr. Reddemann:

This refers to information received by the U.S. Nuclear Regulatory Commission (NRC) on March 9, 2000, that an employee of the Nuclear Management Company, LLC, at the Point Beach Nuclear Plant had been the subject of alleged employment discrimination in apparent violation of 10 CFR 50.7, "Employee Protection." The NRC Office of Investigations (OI) conducted an investigation of this issue and concluded that employment discrimination occurred on February 29, 2000. A copy of the OI report synopsis is enclosed.

Based on the information developed in separate investigations by OI and the Employee Concerns Program at the Point Beach Nuclear Power Plant, the NRC has concluded that a violation of NRC requirements has occurred. In summary, on February 29, 2000, an employee brought a condition report concerning a nuclear safety component to the control room for evaluation by the shift superintendent. During the conversation between the employee and the superintendent, the discussion was joined by a supervisor. At the end of the conversation, that supervisor made a remark which the employee understood to mean that his job was in jeopardy for having written the condition report. The supervisor denied making a remark directly to the employee, but did state that he made a remark that could have been misconstrued. The terms, conditions, and privileges of the employee's employment were changed in violation of 10 CFR 50.7 because the supervisor's remarks caused the employee to believe his employment was in jeopardy for raising a nuclear safety concern in the condition report.

In assessing the violation, the NRC considered that: the violation was not deliberate, the supervisor was not the direct supervisor of the employee, and the supervisor was not in the employee's management chain. The NRC also recognized that the Employee Concerns Program conducted an investigation and immediate corrective actions were taken. Corrective actions consisted of: counseling the supervisor, training personnel on corrective action report acceptance, and interviewing employees from various plant departments to ensure that a safety conscious work environment existed throughout the plant. This violation was categorized in accordance with the "General State of Policy for NRC Enforcement Actions," NUREG-1600 (Enforcement Policy) at Severity Level IV.

The NRC acknowledges that Nuclear Management Company, LLC., investigated the matter and took corrective actions to address the specific issue and the safety conscious work environment at the Point Beach Nuclear Power Plant with little government intervention. The NRC also recognizes that after contacting the Employee Concerns Program, the employee also filed an employment discrimination complaint with U.S. Department of Labor, Occupational Safety and Health Administration (OSHA). A mutually agreeable settlement was reached between the individual and Nuclear Management Company, LLC, prior to an investigative finding by OSHA. In view of the immediate investigation, prompt corrective action, and settlement agreement without an OSHA finding, and after consultation with the Director, Office of Enforcement, and the Deputy Executive Director for Reactor Programs, I have been authorized to exercise enforcement discretion in accordance with Section VII.B.5 of the Enforcement Policy and not issue a Notice of Violation in this matter. Any future violation of 10 CFR 50.7 will be considered for full application of the Enforcement Policy.

You are not required to respond to this letter.

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/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

/RA/

J. E. Dyer
Regional Administrator

Docket Nos. 50-266; 50-301
License Nos. DPR-24; DPR-27

Enclosure: OI Report Synopsis

FILE NAME: G:\EICS\01-258 DISCRETION.WPD

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¹ OE concurrence received on 11/7/01 from Nick Hilton, OE.

cc w/encl: R. Grigg, President and Chief
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SYNOPSIS

This investigation was initiated on March 5, 2001, by the U.S. Nuclear Regulatory Commission, Office of Investigations, Region III, to determine if a Design Engineer working at the Point Beach Nuclear Plant was discriminated against for raising a safety concern.

Based on the evidence developed, the investigation did substantiate the discrimination allegation against the Design Engineer.