

#5

Allegation No.: **RI-2000-A-XXXX**
Site/Facility: Indian Point 2
ARB Date: 1/10/01

Branch Chief (AOC): Eselgroth
Acknowledged: **N/A**
Confidentiality Granted: **NA**

Issue discussed: Seven factors from NRR tech staff to consider before NRR would take action on incomplete or inaccurate information

Alleger contacted prior to referral to licensee (if applicable)? N/A

ALLEGATION REVIEW BOARD DECISIONS

Attendees: Chair - Crlenjak Branch Chief(AOC) - SAC - Vito, Dennis
OI Rep. - Teator RI Counsel -
Others - Linville (DRS), JStrosnider, TSullivan, SCoffin, Ferdas, Holian, Holody, Cwalina, Lund, Goldberg, Khan

DISPOSITION ACTIONS: (List actions for processing and closure. Note responsible person(s), form of action closure document(s), and estimated completion dates.)

- 1) **DRS to ascertain answers to the three proposed questions (see NOTES). Provide information to appropriate person(s).**

Responsible Person: Holian/Schmidt
Closure Documentation:

ECD: 1/31/01
Completed:

- 2) **NRR project manager and tech staff to provide RI with information on personnel phone calls with Con Ed in May/June 1997.**

Responsible Person: Cwalina
Closure Documentation:

ECD: 1/31/01
Completed:

- 3) **Repanel**

Responsible Person: SAC
Closure Documentation:

ECD: 1/31/01
Completed:

SAFETY SIGNIFICANCE ASSESSMENT:

PRIORITY OF OI INVESTIGATION:

If potential discrimination or wrongdoing and OI is not opening a case, provide rationale here (e.g., no prima facie, lack of specific indication of wrongdoing):

Rationale used to defer OI discrimination case (DOL case in progress):

ARB MINUTES ARE REVIEWED AND APPROVED AT THE ARB

DD/30

ENFORCEMENT STATUTE OF LIMITATIONS CONSIDERATION (only applies to wrongdoing matters (including discrimination issues) that are under investigation by OI, DOL, or DOJ):

What is the potential violation and regulatory requirement? _____

When did the potential violation occur? _____

(Assign action to determine date, if unknown)

Once date of potential violation is established, SAC will assign AMS action to have another ARB at four (4) years from that date, to discuss enforcement statute of limitations issues.

NOTES: (Include other pertinent comments. Also include considerations related to licensee referral, if appropriate. Identify any potential generic issues)

(1) DRS to determine date when the defect was identified by Westinghouse

(2) the date Westinghouse reported to Con Ed and

(3) the date the tube was plugged.

(4) OI requested that NRR document dates and times for phone calls.

Distribution: Panel Attendees, Regional Counsel, OI, Responsible Individuals (original to SAC)

- (1) *The degree of knowledge that the communicator should have had, regarding the matter, in view of his or her position, training or experience.*

The primary communicator for this phone call is unknown (could check with the PM to see if she or he recorded this in her or his notes). Based on staff experience, the primary communicators for licensees are generally experienced technical managers with excellent understanding of steam generator issues.

- (2) *The opportunity and time available prior to the communication to assure the accuracy or completeness of the information.*

Again, it is unknown when we notified the licensee that we would like to have a conference call to discuss the outage results. It is possible that the licensee did not have enough time to obtain, summarize and subsequently communicate to the staff the most up-to-date information. Even if the staff had given the licensee plenty of time to prepare, it is possible that the licensee did not go to the trouble of obtaining the most up-to-date information prior to the phone call. Also, because SG inspection work is typically in progress during these types of phone calls, it is possible that information may exist in the licensee's organization that the licensee's representatives participating in the phone call are not aware of.

- (3) *The degree of intent or negligence, if any, involved.*

The staff does not have a conclusion on this matter because it has not yet been determined whether the licensee had identified and confirmed the PWSCC flaw at the time of the May phone call.

- (4) *The formality of the communication.*

The phone call was informal.

- (5) *The reasonableness of NRC reliance on the information.*

These phone calls provide the staff an opportunity to identify potential issues in a timely way. Occasionally the staff recommends that licensees adjust inspections, in situ pressure testing, and repair plans. Licensees provide information through these phone calls that are often our only source of valuable SG inspection information. The staff did not rely on this information for any regulatory action (e.g., license amendment review). The licensee provided complete, accurate information in its July 1997 report to the staff on inspection results.

- (6) *The importance of the information which was wrong or not provided.*

The information was relevant to the February tube failure. However, given the complex nature of the causal factors that led to the tube failure, it is not clear that by providing this information during the phone call, subsequent events would have significantly changed.

- (7) *The reasonableness of the explanation for not providing complete and accurate information.*

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From: Gregory Cwalina
To: Coffin, Stephanie
Date: Wed, Dec 20, 2000 10:01 AM
Subject: Re: Indian Point 2 Steam Generator

Talk to Ted Sullivan. He's the one who gave me your name.

>>> Stephanie Coffin 12/19 3:16 PM >>>

I have no idea what you are talking about. Should I?

>>> Gregory Cwalina 12/19 11:16 AM >>>

I talked with Dave Vito, RI OAC. The issue will be brought before the ARB on January 10, 2001 at 9:30 AM. Dave will provide me a bridge number for our participation. Since the number of lines will be limited I suggest we gather in 1 or 2 spots. We can use the Allegation file room (O6D2) as one area.

* I informed Dave that NRR will present a determination regarding the 7 considerations before taking enforcement on oral statements.