



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, DC 20555 - 0001**

January 23, 2003

Mr. Barry Quigley
3512 Louisiana Road
Rockford, IL. 61108

SUBJECT: ALLEGATION NO. NRR-2002-A-0034

Dear Mr. Quigley:

This refers to an October 30, 2002, letter to you from Mr. Frank Congel of the U.S. Nuclear Regulatory Commission (NRC). Mr. Congel's letter informed you that your request for an investigation into allegations of professional defamation and harassment was being entered into the NRC allegation system. In your October 15, 2002, letter to NRC Chairman Richard Meserve, you claimed that you were "personally and professionally defamed" by an employee of the Nuclear Energy Institute (NEI) during a presentation by the NEI employee at the Employee Concerns Program Forum held in September 2002.

We believe that all individuals who raise safety concerns must be free to do so without fear of reprisal and must also be treated with respect. Therefore, the NRC was concerned about the remarks made by the NEI representative, particularly in light of NEI's leadership role in the nuclear industry.

While your letter was under review, the NRC received a letter dated November 22, 2002, from Mr. Joe F. Colvin, President and Chief Executive Officer of NEI (Enclosure 1). Mr. Colvin stated that the remarks made by the NEI employee at the ECP Forum were inappropriate and did not reflect NEI's position or policy. NEI also stated that the individual had been disciplined and other actions taken to assist NEI employees in carrying out the NEI mission. Those steps include additional training on the importance of effective communications and the features of a safety conscious work environment.

The NRC was unable to determine that the NEI employee's remarks constituted a violation of 10 CFR 50.7, "Employee protection". Enclosure 2 to this letter documents your concern and the NRC resolution. Although the remarks of the NEI representative were inappropriate, there was no employment relationship between yourself and NEI and we are not aware that your own employer has taken any adverse action in connection with this matter. Nonetheless, in a letter dated January 17, 2003, the NRC informed NEI of our concern about the remarks. A copy of the NRC letter to NEI is provided as Enclosure 3.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Thank you for informing us of your concern. We believe that our actions in this matter have been responsive to your concern. We take our safety responsibilities to the public very seriously and will continue to do so within the bounds of our lawful authority. Unless the NRC receives additional information that suggests we should revisit the matter, we plan no further action. Should you have any additional questions, or if we can be of further assistance in this matter, please call Mr. Gregory Cwalina or Joseph Petrosino at (800) 368-5642 or Fax Number (301) 415-3325.

Sincerely,

Original signed by

Theodore R. Quay, Chief
Equipment and Human Performance Branch
Division of Inspection Program Management
Office of Nuclear Reactor Regulation

Enclosures: As stated

Thank you for informing us of your concern. We believe that our actions in this matter have been responsive to your concern. We take our safety responsibilities to the public very seriously and will continue to do so within the bounds of our lawful authority. Unless the NRC receives additional information that suggests we should revisit the matter, we plan no further action. Should you have any additional questions, or if we can be of further assistance in this matter, please call Mr. Gregory Cwalina or Joseph Petrosino at (800) 368-5642 or Fax Number (301) 415-3325.

Sincerely,

Original signed by

Theodore R. Quay, Chief
Equipment and Human Performance Branch
Division of Inspection Program Management
Office of Nuclear Reactor Regulation

DISTRIBUTION:
OAC Files

See previous concurrence

DOCUMENT NAME: C:\ORPCheckout\FileNET\ML030310278.wpd3

OFFICE	OAC/NRR	DIPM/IEHB	OGC	DIPM	
NAME	G. Cwalina	TRQuay	Petrosino	BBoger/TRQ	
DATE	1/21/03	1/23/03	1/23/03	1/23/03	

ALLEGATION NO. NRR-2002-A-0034
STATEMENT OF CONCERN AND NRC RESPONSE

CONCERN

You believe that you were personally and professionally defamed at the Employee Concerns Forum, held in Kansas City, Missouri on September 15 -18, 2002, by an employee of the Nuclear Energy Institute (NEI) during NEI presentations conducted during the Forum. You believe that the incident was a violation of 10 CFR Part 50.7, "Employee protection," and that it was directed at you because of your engagement in protected activities..

Background:

In your October 15, 2002, letter to Chairman Meserve, you stated that you were " personally and professionally defamed" at the Employee Concerns Program (ECP) Forum held in Kansas City in September 2002. At that meeting, an NEI representative provided a presentation on worker fatigue in the nuclear industry. During the presentation, the NEI representative was discussing at Petition before the Commission when he referred to the petitioner as, "a gentleman from a large metropolitan utility, and I use the term gentleman loosely." It was known by many members of the audience that you were the petitioner and, although you were not specifically mentioned by name by the NEI representative, you felt that his remarks were incorrect, embarrassing and damaging to your reputation. You also felt that the NEI representative further disparaged you when he stated that you did an "arabesque" around your management and went to the NRC and the Union of Concerned Scientists with his concerns.

NRC Response:

Prior to our receipt of your October 15, 2002, letter to Chairman Meserve, NRC management had been made aware of the issue by members of the staff who had attended the ECP Forum. After your letter was received, it was reviewed to determine if there was a legal basis for the NRC to take action. Based upon our review, the NRC has determined that the remarks made by the NEI representative did not constitute an act of discrimination in accordance with 10 CFR 50.7.

While we were reviewing your concern, Mr. Joe F. Colvin, President and Chief Operating Officer of NEI, sent a letter to Chairman Meserve dated November 22, 2002, informing the NRC that NEI was aware of the matter and was taking action. NEI stated that disciplinary action was taken with respect to the NEI employee involved, additional training for all NEI personnel will be completed by the end of the year, and NEI internal policies will be revised to strengthen their focus on the principles of a safety conscious work environment. The NRC believes that these actions are appropriate in light of the importance of this matter.

The NRC believes it imperative that individuals be able to raise safety concerns to the NRC without fear of reprisal. In light of NEI's leadership role in the nuclear industry, the NRC expects NEI to be sensitive to the potential impact of disparaging remarks about protected activity. The NRC found it disturbing that an NEI representative would make such remarks about any individual who uses processes approved by the NRC to raise such concerns. The NRC stated that position to NEI in a January 17, 2003, response to Mr. Colvin's November 22, 2002, letter.