

September 9, 2003

Mr. Fred R. Dacimo
Vice President - Operations
Entergy Nuclear Operations, Inc.
Indian Point Energy Center
295 Broadway, Suite 2
P.O. Box 249
Buchanan, NY 10511-0249

RI-2002-A-0069

Dear Mr. Dacimo:

The Region I Field Office of the NRC Office of Investigations (OI) initiated an investigation on May 20, 2002, (Case No. 1-2002-023) to determine if a former Indian Point 3 nuclear training specialist was discriminated against for engaging in protected activity. Specifically, it was asserted that a series of actions were taken against the individual during 2000 and 2001, including a poor performance appraisal, termination of his/her senior reactor operator (SRO) license, and termination of his/her employment, because he/she had raised an issue about procedural compliance during the fall 1999 refueling outage. Based on the evidence developed during this investigation, OI did not substantiate that the former nuclear training specialist was discriminated against for engaging in protected activity. The testimonial and documentary evidence developed during the investigation supported that the actions taken against the individual were related to performance assessment matters and were non-discriminatory. Specifically, it was not apparent that the management personnel who took the personnel actions against the individual were informed about the issues raised earlier by the individual to other managers. In fact, the evidence shows that the management personnel who took the personnel actions against the individual were not aware that the individual had raised the earlier concerns to other managers, until after the personnel actions had been taken. Regarding the termination of the individual's SRO license, the evidence developed during the investigation demonstrated that business decisions resulted in five other individuals, in addition to the individual, having their operating licenses terminated in the 2000-2001 time frame, inferring that the individual was not singled out for discriminatory reasons. Based on the evidence developed during this investigation, OI did not substantiate that the individual was discriminated against for having engaged in protected activity. A copy of the synopsis of OI Report 1-2002-023 is enclosed for your information.

Please note that final NRC documents, such as the OI report described above, may be made available to the public under the Freedom of Information Act (FOIA) subject to redaction of information appropriate under the FOIA. Requests under the FOIA should be made in accordance with 10 CFR 9.23, Requests for Records, a copy of which is enclosed for your information.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Also, in accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if any, will be 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).

Should you have any questions regarding this letter, please feel free to contact Mr. D. Lew of my staff at (610) 337-5120.

Sincerely,

/RA/

Brian E. Holian for

A. Randolph Blough, Director
Division of Reactor Projects

Enclosures:
As Stated

Distribution:

F. J. Congel, OE

D. Vito, SAC

ADAMS (Docket Nos. 50-286)

D. Screnci, PAO

Region I Docket Room (w/concurrences)

DOCUMENT NAME:G:\ALLEG\LICENSEE\20020069Lic.WPD

To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure "E" = Copy with attachment/enclosure "N" = No copy

OFFICE	ORA:SAC	DRP:RPB2	RI:OI	RI:RC	RI:DRP
NAME	DVito/slj	Eselgroth	Wilson/Monroe	KFarrar	ABlough
DATE	08/27/2003	09/05/2003	08/28/2003	09/03/2003	09/08/2003

OFFICIAL RECORD COPY

This investigation was initiated by the U. S. Nuclear Regulatory Commission, Office of Investigations (OI), Region I, on May 20, 2002, to determine if a former nuclear training specialist at Indian Point 3, was discriminated against for engaging in protected activity. Specifically, the former nuclear training specialist believed that a series of actions were taken against him/her during 2000 and 2001 to include a poor performance appraisal, termination of his/her senior reactor operator license, and termination of employment, because he/she had raised an issue about procedural compliance during the fall 1999 refueling outage.

Based on the evidence developed during this investigation, OI did not substantiate that the former nuclear training specialist was discriminated against for having engaged in protected activity.