

March 8, 2004

Mr. Theodore Sullivan
Site Vice President
Entergy Nuclear Northeast
James A. FitzPatrick Nuclear Power Plant
Post Office Box 110
Lycoming, New York 13093

RI-2002-A-0136
RI-2003-A-0010
RI-2003-A-0028

Dear Mr. Sullivan:

The Region I Field Office of NRC Office of Investigations (OI) initiated an investigation (OI Case No. 1-2002-041) on October 18, 2002, to determine if security guards fired weapons for certain training courses and/or if firearms qualification records were falsified by a manager to make it appear as if the training had been completed. Specifically, OI assessed whether weapons qualification results were inflated to give a favorable outcome for security officers that should not have attained qualifications based on actual firing range scores and if nighttime familiarization training tasks were conducted in accordance with records of late May 2002.

Based on the evidence developed during the investigation, OI did not substantiate that firearms qualification records were falsified. OI did determine that the accuracy of documentary evidence collected, including nighttime familiarization training records, was questionable due to acknowledged inconsistencies in the way the paperwork was directed to be filled out by the manager (i.e. pre-signing and dating of training records before the tasks are completed). OI further determined that this pre-signing undermined validation that would support the integrity of the established process. Despite some doubt that there was 100% accuracy of all security guards having completed each qualification task, OI could not substantiate that training task records were deliberately falsified. Similarly, OI could not identify sufficient evidence to substantiate that individuals did not complete the nighttime familiarization course. The testimonial evidence by security management and the majority of security guards who were interviewed supported the belief that no falsification of any training records occurred.

Regarding an assertion that fire range scores were inflated by the manager for security officers that would not have attained qualifications based on actual scores, OI found no evidence to support this claim. In fact, OI identified that the manager failed to qualify a security officer for this very reason.

Based on the available evidence developed during this investigation, OI could not substantiate that the manager deliberately falsified firearm qualification or nighttime familiarization training task records.

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Also, On January 9, 2003, the Region I Field Office of NRC Office of Investigations (OI) initiated an investigation (OI Case No. 1-2003-009) to determine if an individual was discriminated against, i.e., had their employment terminated in October 2002, as a result of raising security/safety concerns. Management's position was that the individual's employment was terminated for sleeping on duty.

As a result of the investigation, OI did not substantiate that the individual was discriminated against. OI concluded that the totality of circumstantial evidence in this case did not support the allegation that the individual was retaliated against for engaging in protected activity. Cognizant individuals interviewed during the investigation indicated that they were not aware of the individual's engagement in protected activity, a primary element for establishing a finding of discrimination. OI also noted that there was corroborating evidence that the individual had slept on duty. It was concluded that, based on the evidence brought forward during the investigation, the individual's employment was terminated for legitimate, non-discriminatory reasons.

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.

Also, in accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter 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. G. Meyer of my staff at (610) 337-5211.

Sincerely,

/RA/

A. Randolph Blough, Director
Division of Reactor Projects

Enclosure:
10 CFR 9.23, Requests for Records

Mr. Theodore Sullivan

3

RI-2002-A-0136

RI-2003-A-0010

RI-2003-A-0028

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