



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

September 30, 2004

EA-04-163

Mr. M. Nazar
Chief Nuclear Officer
Nuclear Generation Group
American Electric Power Company
500 Circle Drive
Buchanan, MI 49107-1395

SUBJECT: ALLEGED DISCRIMINATION (U.S. Department of Labor Administrative Law Judges Case No. 2002-ERA-00030)

Dear Mr. Nazar:

On June 29, 2004, the U.S. Department of Labor (DOL) Office of Administrative Law Judges (ALJ) (Case No. 2002-ERA-00030) concluded in its Recommended Decision and Order that the employment of a former test engineer supervisor at your D.C. Cook facility was terminated on October 2, 2001, because he raised safety concerns related to exceeding work hours. American Electric Power Company (AEP) has appealed the ALJ Decision to the DOL Administrative Review Board (ARB). That appeal is pending.

The U.S. Nuclear Regulatory Commission (NRC) notified AEP, by letter dated December 4, 2002, that the NRC Office of Investigations (OI) had conducted an investigation into this matter (OI Report No. 3-2001-051). Based on the information obtained during the OI investigation, the NRC did not substantiate that the former test engineer was discriminated against for raising safety concerns. We have reviewed the ALJ Decision, and as is our normal practice, we will monitor the DOL ARB proceedings to determine if revisiting the matter is warranted.

We recognize that you may not believe that unlawful discrimination occurred. However, the NRC is concerned that, because of the ALJ decision, there exists the potential for a chilling effect on the safety conscious work environment at the D.C. Cook facility. Specifically, our concern is that D.C. Cook employees could be reluctant to identify or raise potential safety concerns for fear of similar retaliation. Therefore, the NRC is requesting that AEP inform the NRC of any actions it has taken, is taking, or plans to take to prevent this event from having a negative effect on the willingness of all D.C. Cook employees to raise safety concerns. Please provide your written response to me at U.S. Nuclear Regulatory Commission, Mail Stop O-14E1, 11555 Rockville, MD 20852, within 30 days of the date of this letter. After reviewing your response, the NRC will determine whether any further action is warranted at this time.

In accordance with 10 CFR 2.390 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 NRC's document system (ADAMS), accessible from the NRC Web site at

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<http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

For questions concerning this letter, please contact Mr. Doug Starkey, NRC, Office of Enforcement at 301-415-3456 or via e-mail at drs@nrc.gov.

Sincerely,

/RA/

Frank J. Congel, Director
Office of Enforcement

Docket Nos.: 50-315; 50-316
License Nos.: DPR-58; DPR-74

cc: J. Jensen, Site Vice President
M. Finissi, Plant Manager
G. White, Michigan Public Service Commission
Michigan Department of Environmental Quality
Emergency Management Division
MI Department of State Police
D. Lochbaum, Union of Concerned Scientists

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