

January 24, 2005

Mr. Michael J. Meisner
Chief, Nuclear Officer
Maine Yankee Atomic Power Company
321 Old Ferry Road
Wiscasset, ME 04578-4922

RI-2003-A-0112

Dear Mr. Meisner:

On September 26, 2003, the Region I Field Office of the NRC Office of Investigations (OI) initiated an investigation (Case No. 1-2003-050) to determine if a contract employee was discriminated against (suspended and employment subsequently terminated in October 2003) for engaging in protected activity, i.e., for raising security-related concerns. OI found that the testimony obtained during the investigation did not corroborate that the contract employee was threatened with employment termination for raising safety concerns. Documentary and testimonial evidence supported that disciplinary actions were taken, and that the contract employee's employment was subsequently terminated because of performance issues, and not for raising safety concerns.

Based on the evidence developed during the investigation, OI did not substantiate that the contract employee was discriminated against for engaging in protected activity. The NRC is aware that in October 2003, the contract employee submitted a discrimination complaint to the U. S. Department of Labor's (DOL) Area Office of the Occupational Safety and Health Administration (OSHA) in Portland, ME, regarding the same matter. DOL/OSHA's review of this matter was transferred to the DOL/OSHA Area Office in Providence, RI. On March 10, 2004, the Area Director of the DOL/OSHA Area Office in Providence issued a finding that was not in the contract employee's favor. The DOL/OSHA Area Director finding was not appealed to a DOL Administrative Law Judge, rendering the DOL/OSHA Area Director's decision as the final DOL decision regarding this discrimination complaint. The NRC reviewed the DOL/OSHA Area Director's decision, and found no reason to alter our conclusion that discrimination did not occur in this instance.

Please note that final NRC documents, such as the OI report discussed 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.

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Also, in accordance with 10 CFR 2.390 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). Please note that on October 25, 2004, the NRC suspended public access to ADAMS, and initiated an additional security review from the ADAMS database accessible through the NRC's web site. Interested members of the public may obtain copies of referenced documents for review and/or copying by contacting the NRC Public Document Room pending resumption of public access to ADAMS. The NRC Public Document Room is located at NRC Headquarters in Rockville, MD, and can be contacted at 800-397-4209 or 301-415-4737 or pdr@nrc.gov.

Should you have any questions regarding this letter, please feel free to contact Dr. Ronald Bellamy of my staff at (610) 337-5200.

Sincerely,

/RA/ Costello for

George Pangburn, Director
Division of Nuclear Materials Safety

Enclosure:
10 CFR 9.23, Requests for Records

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