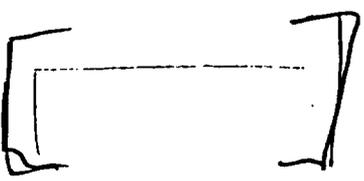




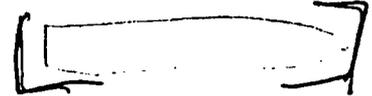
UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION III
801 WARRENVILLE ROAD
LISLE, ILLINOIS 60532-4351

May 3, 2002



SUBJECT: ALLEGATION NO. RIII-02-A-0054



7C

on 5/16/02
Bob O'Connell
called me. told me
that NMSS's closure
letter for the
original accountability
issue referenced in his
letter was not received
by the CE after numerous
attempts. I told Bob that we
would provide the CE

with the
information
if she/he
contacted
me. He
CE was
also
provided
NMSS's
phone
number for
a contact
on the
matter
ADCK

This letter refers to your phone conversation with Andrea Kock on April 4, 2002, in which you expressed concerns about activities at ABB/CE/Westinghouse facility located in Hematite, Missouri. You were concerned that: (1) label samplers were not provided as required; (2) platinum wear and tools were stolen from the site; (3) Erbium contamination was found while completing emission specification work; (4) depleted uranium was missing from the site; (5) you were exposed to sodium hydroxide; (6) gunk and algae are in the site drinking water; (7) Rubidium was buried under the warehouse store room; (8) you were terminated for raising safety issues. Enclosure 1 to this letter documents your concerns as we understand them. If we have misunderstood or mischaracterized your concerns as described in the enclosure, please contact one of the Region III Office Allegation Coordinators at the address provided below

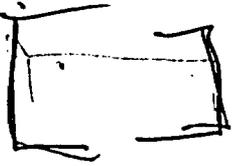
During the April 4th phone conversation you told Mrs. Kock that you disagreed with our evaluation of your concern about the process for accountability of U-235 in the laboratory. We have reviewed our files and determined that the RIII technical staff did not evaluate this concern. It appears that the NRC's Office of Nuclear Materials Safety and Safeguards (NMSS), may have addressed this concern. Therefore, we are referring your comments to Robert O'Connell, NMSS Senior Allegation Coordinator. If you have additional comments or questions about this concern, please Mr O'Connell at:

One White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738
1-800-368-5642

In addition, you told Mrs. Kock that you have not received a response for the 21 concerns you communicated to an unnamed NRC employee in January of 2002 and you have not received a response to the concerns you provided in 1998. We have researched our files and were only able to find two files associated with your name. One was the concern discussed above regarding accountability of U-235 and the other was a discrimination complaint that the NRC did not investigate because you did not provide the requested information. Since the April 4th phone conversation, Mrs. Kock has made several unsuccessful attempts to contact you and obtain the remaining concerns. If your 21 concerns are not addressed in enclosure 1, please contact one of the Region III Office Allegation Coordinators at the address provided below

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 7C
FOIA- 2004-0234

J-5



1706

Enclosure 2 to this letter is the NRC brochure, "Reporting Safety Concerns to the NRC." The brochure contains information that you may find helpful in understanding our process for review of safety concerns. It includes an important discussion of the NRC's identity protection procedures and limitations at pages 5-7. Please be aware that if you have been identified as having brought the concern to the NRC under any of the six circumstances described on page 6 of the Identity Protection Limitations section of the enclosed NRC brochure, we will not be able to protect your identity. Mrs. Kock discussed our identity protection program with you on April 4, 2002. You indicated that you (1) did object to having your identity released, and (2) did not object to having the concerns referred to the licensee. Our evaluation of concerns 1, 2, 3, 4, 5, 6, and 7 continues. When we complete our evaluation we will provide you the results of our evaluation.

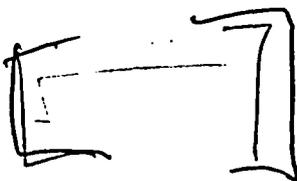
Concern 8 involves your belief that you were the subject of employment discrimination for raising safety concerns. Several members of the Region III staff reviewed your claim of discrimination and determined that we need additional information from you before we can continue our inquiry into this concern. Enclosure 1 describes the concern as we understand it and the additional information we need from you in order for us to continue our inquiry. Please respond to the questions within 30 days of the date of this letter. You can provide this information by writing to the Region III Office Allegation Coordinators at the address provided below. If you do not provide this information within 30 days, we will close this concern.

Since you believe you were the subject of employment discrimination, you have 180 days from the date of the alleged discriminatory act or the date you received any written notice of an adverse personnel action (e.g., layoff or suspension), whichever occurred first, in which to file a written complaint with the U.S. Department of Labor (DOL) under Section 211 of the Energy Reorganization Act. You will need to file your written complaint at the following address:

U.S. Department of Labor
Occupational Safety and Health Administration
City Center Square
1100 Main Street, Suite 800
Kansas City, Missouri 64105
Telephone: (816) 426-5861

If you file with the DOL, please provide us with a copy of the complaint.

The NRC and DOL have differing responsibilities when evaluating employment discrimination. While the DOL can order personal remedies such as reinstatement of your job, back pay, and reverse disciplinary action, the NRC does not have that authority. The NRC may conduct an independent investigation, in parallel with the DOL investigation, to determine if discrimination occurred. Additionally, the NRC will review the final decision of the DOL. If the NRC concludes discrimination occurred, the NRC will determine if enforcement action against the licensee is warranted. In the meantime, if the matter is settled or concluded in some manner, we request that you inform us and provide copies of any documents you file or receive regarding the discrimination issue.



AK

Thank you for notifying us of your concerns. We will advise you when we have completed our review of these matters. If you have any questions, please contact Andrea Kock or me by writing to the U.S. Nuclear Regulatory Commission, Region III, at 801 Warrenville Road, Suite 255, Lisle, Illinois 60532-4351, or calling the NRC Region III switchboard toll free at (800) 522-3025. My E-mail address is JKH@nrc.gov and Mrs. Kock's E-mail address is ALK@nrc.gov. If you E-mail us, please send the information to both E-mail addresses. Your cooperation is appreciated.

Sincerely,

James Heller
Senior Allegation Coordinator

- Enclosures: 1. Summary of Concerns
2. NUREG/BR-0240, "Reporting Safety Concerns to the NRC"

cc w/enclosure 1: AMS File No. RIII-02-A-0054

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Our current understanding of your concerns are summarized below. If you have any additional or clarifying information related to these concerns, please contact one of the Region III Office Allegation Coordinators at the address provided in the letter.

Concern 1:

You were concerned that lapel samplers were not provided as required on several occasions.

Concern 2:

You were concerned that some platinum wear and tools were stolen from the site.

Concern 3:

You were concerned that Erbium contamination was found while completing emission specification work.

Concern 4:

You were concerned that depleted uranium was missing from the site and later found.

Concern 5:

You were concerned that the licensee shut a damper in the area where you were working such that you were exposed to sodium hydroxide and could not breathe.

Concern 6:

You were concerned that "gunk" and algae are in the site drinking water.

Concern 7:

You were concerned that Rubidium was buried under the warehouse store room.

Concern 8:

You were concerned that you were terminated for raising safety issues.

NRC status for concern 8

Several members of the Region III technical staff have reviewed this concern and determined that we need additional information from you before we can complete our evaluation. You can provide this information in writing to a Region III Office Allegation Coordinator at the mail or E-mail address provided in the letter. **If you do not provide this information within 30 days of the date of this letter, I will close this concern.**

The NRC regulations protect individuals who raised safety concerns from retaliatory employment actions. Since you believe you were the subject of discrimination because you raised safety concerns, please provide the following information:

1. What action was taken against you? (For example, fired, laid off, demoted, or transferred)

When was the action taken?

2. Our regulations protect people from discrimination for raising nuclear safety issues.
 1. What issue(s) did you raise?
 2. How and to whom did you raise these issue(s)?
 3. When did you raise these issue(s)?
 4. Did you document these issues within the licensee's corrective action program? When were they documented?
3. Did you inform anyone from your management or the NRC of your concern?
4. If you informed the NRC, was your management aware that you informed the NRC?
5. Why do you believe the action taken against you was because you raised these safety issues?
6. Have you filed a discrimination complaint with the DOL? If you did please provide, if possible, the DOL complaint number, the office that investigated the complaint, and the results of DOL investigation.
7. It is our understanding that the facility has been shutdown and the employment of the majority of the employees were terminated. Why do you believe that your termination was for raising safety issues and not part of the preplanned lay off?
8. You told Mrs Kock that you did not want your name released to the licensee. An NRC investigation of your claim of discrimination without identifying you would be extremely difficult. Therefore, if the NRC does an investigation, you should be aware that in evaluating your claim of discrimination, your name will be disclosed. Do you object to the release of your name.