



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

January 19, 2006

EA-05-220

Mr. Michael Balduzzi
Site Vice President
Entergy Nuclear Operations, Inc.
Pilgrim Nuclear Power Station
600 Rocky Hill Road
Plymouth, Massachusetts 02360-5508

SUBJECT: OFFICE OF INVESTIGATIONS REPORT NO. 1-2004-030

Dear Mr. Balduzzi:

The Region I Field Office of the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) initiated an investigation (Case No. 1-2004-030) on June 8, 2004. The purpose of the investigation was to determine if a former contract pipefitter, who engaged in a protected activity on April 29, 2003, while working for Williams Industrial Services Group, LLC, f/k/a Williams Power Corporation (Williams) at Entergy Nuclear Operations, Inc., Pilgrim Nuclear Power Station (PNPS), was the subject of employment discrimination by being blacklisted (deselected) from obtaining subsequent employment at FPL Energy, Seabrook Station (Seabrook) in September 2003 in violation of 10 CFR 50.7, "Employee protection." The investigation also included the circumstances by which the former pipefitter left the job at PNPS, and whether that may have constituted discrimination.

OI found that on April 29, 2003, a contract pipefitter, in addition to other work crew members, raised concerns at PNPS regarding the quality of a feedwater heater level switch work package not providing sufficient detail to complete the project. OI confirmed that at that meeting, a Williams supervisor stated to the night shift work crew working the feedwater heater level switch project that if they did not like the way the work was being done, they could leave. OI also identified that a second Williams supervisor then interjected and stated that the job was not safety-related and was considered "field run" with the exception of certain critical points. The supervisor then pulled out the drawings from the work package and went over the notes to explain the flexibility that the work package allowed and stated that a PNPS engineer would look at the critical dimensions and verify the work. OI found that notwithstanding this explanation, several Williams employees requested and received voluntary layoffs. OI verified that PNPS had documented the concern about the quality of the feedwater heater work package in their corrective action program, and that the investigation concluded that work package permitted flexibility and was appropriate for a non safety-related job. Based on the above, the NRC concluded that the contract pipefitter voluntarily walked off the job at PNPS and that the individual was not discriminated against.

Concurrent with the OI investigation, the U.S. Department of Labor's Occupational Safety & Health Administration (OSHA) performed an independent investigation into whether the pipefitter

was blacklisted by Williams supervision when they did not select him for employment at Seabrook. The OSHA investigation concluded that the evidence supported a finding, based on its merit, that discrimination occurred. On October 20, 2004, in response to the OSHA finding, the NRC issued a "chilling effects letter" to Williams, Seabrook, and PNPS requiring responses describing the actions the parties had taken or planned to take to assure the matter is not having a chilling effect on the willingness of other employees to raise safety and compliance concerns within their respective organizations. In a letter dated November 22, 2004, PNPS described the actions they had taken to address concerns regarding an actual or potential chilling effect caused by the event. These actions included requiring that Williams take appropriate corrective action with the supervisory personnel involved regarding PNPS expectations for a safety conscious work environment (SCWE) and promoting a questioning attitude. In addition, PNPS verified, by interviewing contract personnel on-site, that the event did not negatively impact the site work environment. PNPS also indicated that contract organizations are required to promote a SCWE and that this expectation is formalized in every service contract. The NRC has no further questions regarding this matter.

You are not required to respond to this letter. However, should you choose to respond, your response should be sent to the U.S. Nuclear Regulatory Commission, ATTN: Director, Office of Enforcement, Washington, DC 20555. If you have any questions, contact Mr. Russell Arrighi of my staff at 301-415-0205 or via e-mail at rja1@nrc.gov.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, and your response, if you choose to submit one, 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 <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.

Sincerely,

/RA/

Michael R. Johnson, Director
Office of Enforcement

Docket No. 50-293
License No. DPR-35

cc: G.J. Taylor, Chief Executive Officer, Entergy Operations
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C. McCombs Director, MEMA and Commonwealth of Massachusetts, SLO Designee
Commonwealth of Massachusetts, Secretary of Public Safety

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