



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

January 19, 2006

EA-05-219

Mr. Gene St. Pierre
Site Vice President
c/o James M. Peschel
FPL Energy Seabrook, LLC
Seabrook Station
P.O. Box 300
Seabrook, NH 03874

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

Dear Mr. St. Pierre:

This letter refers to an investigation regarding FPL Energy, Seabrook Station (Seabrook) and Entergy Nuclear Operations, Inc., Pilgrim Nuclear Power Station (PNPS) conducted by the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI). The purpose of the investigation was to determine, in part, 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 PNPS, was the subject of employment discrimination by being blacklisted (deselected) from obtaining subsequent employment at Seabrook in September 2003 in violation of 10 CFR 50.7, "Employee protection." The OI investigation substantiated that the pipefitter was discriminated against by Williams at Seabrook for previously raising concerns regarding the quality of a work package at PNPS.

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, Seabrook described the actions they had taken to address concerns regarding an actual or potential chilling effect caused by the event. These actions included counseling Williams senior management and on-site managers regarding Seabrook's expectations for maintaining a safety conscious work environment (SCWE) and demanding that Williams take action to ensure Williams is creating

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and maintaining a SCWE. In addition, Seabrook indicated that they have provided employee concerns training to managers and supervisors, including personnel employed by Williams and their security contractor; and intend to conduct SCWE surveys annually at each of its nuclear plants.

Based on a review of the OI report, the NRC concluded that an apparent violation was identified at Seabrook and was considered for escalated enforcement in accordance with the NRC Enforcement Policy. The current Enforcement Policy can be found on the NRC's Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Enforcement Policy**. The apparent violation of 10 CFR 50.7, "Employee protection," involves the deselection of the contract pipefitter for employment at Seabrook, for engaging in a protected activity (expressing concerns regarding a PNPS work package).

Before the NRC makes a final enforcement decision, we would normally provide you with an opportunity to either attend a closed, predecisional enforcement conference (PEC), provide a written response, or request alternative dispute resolution (ADR) to discuss the apparent violation. The purpose of a PEC is to obtain information to assist the NRC in making an enforcement decision, including whether a violation occurred. ADR is a general term encompassing various techniques for resolving conflict outside of court using a neutral third party. Additional information concerning the NRC's ADR pilot program can be obtained at <http://www.nrc.gov/what-we-do/regulatory/enforcement/adr.html>. However, after taking into consideration the actions you have taken in response to this event as documented in your letter to the NRC dated November 22, 2004, and the actions your contractor, Williams, committed to in a November 14, 2005, Confirmatory Order; the NRC decided not to pursue further enforcement action against Seabrook on the subject of this investigation.

Similarly, the NRC also decided not to pursue this matter further with Williams since any violation occurred prior to the NRC issuance of a Confirmatory Order to Williams on November 14, 2005, for a similar but unrelated case. A copy of the letter issued to Williams and the above mentioned Confirmatory Order are enclosed for your information.

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),

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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.: 50-443
License No.: NPF-86

Enclosures:

1. Letter to Williams Industrial Services Group, LLC
2. Confirmatory Order issued to Williams Industrial Services Group, LLC

cc w/encl.1 only: J.A. Stall, FPL Senior Vice President, Nuclear & CNO
J.M. Peschel, Manager - Regulatory Programs
M. Kiley, Plant General Manager - Seabrook Station
J. Dent, Assistant Plant Manager - Seabrook Station
R.S. Kundalkar, FPL Vice President - Nuclear Engineering
D.G. Roy, Nuclear Training Manager - Seabrook Station
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R. Shadis, New England Coalition Staff
M. Metcalf, Seacoast Anti-Pollution League

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Sincerely,

/RA/

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