

May 25, 2006

Mr. James H. Lash
Site Vice President
First Energy Nuclear Operating Company
Beaver Valley Power Station
Post Office Box 4
Shippingport, Pennsylvania 15077

RI-2004-A-0125

Subject: NRC Office of Investigations (OI) Case 1-2004-042

Dear Mr. Lash:

On September 3, 2004, the Region I Field Office of the NRC Office of Investigations (OI) initiated an investigation (Case No. 1-2004-042) to determine if a former advanced nuclear technologist was discriminated against for raising safety concerns to First Energy Nuclear Operating Company (FENOC) management. Specifically, the former technologist believed that he/she was terminated in March 2004 because of raising a concern about data "fudging," and for writing condition reports.

Based on the evidence developed during the investigation, OI did not substantiate that the technician was terminated for raising safety concerns. Documentary and testimonial evidence developed by OI indicated that the technologist was terminated as a result of his/her overall job performance and attitude. Performance deficiencies were found to have been documented in some performance appraisals issued in advance of the protected activity of raising safety concerns.

The NRC also reviewed the results of the U. S. Department of Labor (DOL) Occupational Safety and Health Administration (OSHA) review of the same matter. In a finding dated February 4, 2005, the Regional Administrator of the DOL/OSHA Region 3 Office in Philadelphia, PA, concluded that the former technologist failed to demonstrate that his/her protected activity was a contributing factor in his/her employment termination and issued an Order dismissing the technologist's discrimination claim. The technologist did not appeal the DOL/OSHA finding. Accordingly, the NRC found no reason to alter the conclusions of the OI investigation with regard to this matter.

Please note that final NRC investigation documents, such as the OI report described 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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Sincerely,

/RA/

Brian E. Holian, Director
Division of Reactor Projects

Enclosure: 10 CFR 9.23, Requests for Records

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