

SENSITIVE ALLEGATION MATERIAL

**FOLLOWUP ARB: RIII-02-A-0114**

September 4, 2002

MEMORANDUM TO: James Creed, Chief, Security Branch, DRS

FROM: J Heller RIII - OAC

SUBJECT: FOLLOWUP ARB FOR : RIII-02-A-0114 (KEWANUEE)

On September 4, 2002, the security team has completed its review of OI's interview with the CI. This review resulted in an additional concern pertaining to a chilled environment for raising an FFD issue to the licensee and participating in the licensee's investigation of the FFD issue. Your staff recommended that we create a new allegation file to address this concern. Normally we would create a new allegation file, however, while reviewing the file I noted that the referral of concern 2 was on hold pending security team's review of OI's interview. I elected to add this concern to this file and I will forward concern 2 and the new concern (listed as concern 5) at the same time.

**I have scheduled an Allegation Review Board (ARB) for September 9, 2002** Please review the attached information to prepare for the ARB.

cc w/attachments:

ARB Copy

OI

RC

DRP Br Chief For Rx Cases-Lanksbury

DRS Division Director For Rx Cases-Grobe

Clayton for H&I or wrong doing

Information in this record was deleted  
in accordance with the Freedom of Information  
Act, exemptions OUTSIDE SCOPE  
FOIA- 2006-113

D-12

(9)

**SENSITIVE ALLEGATION MATERIAL**

**ALLEGATION ACTION PLAN**

AMS NO. RIII-02-A-0114

Licensee: Kewaunee  
 Docket/License No: 05000305  
 Assigned Division/Branch: Security

**Allegation Review Board Membership:** Chairman -Grant/ Pederson/ Grobe

*Fahy*  
Paul/ Berson/ Heller/ Kock/ Clayton

Dapas/ Cariano/ Reynolds

*\* B<sup>2</sup> was called to an unscheduled  
 DVP meeting send copy of minutes  
 to B<sup>2</sup> for review.*

Creed, Madeda

*know KUNOWSKI*

**GENERIC CONCERNS:** If Yes Explain: \_\_\_\_\_

**DISCUSSION OF SAFETY SIGNIFICANCE:** No immediate threat to public health and safety.

**OI ACCEPTANCE:** YES NO (Priority: HIGH NORMAL LOW )

**Basis for OI Priority:** Note: concern 1, 3 and 4 are the subject of an OI investigation

OI has Accepted Concern(s) No(s). \_\_\_\_\_ Signature \_\_\_\_\_

ARB MINUTES PROVIDED TO: Dyer/Paul/Creed/Busm *Boat 9/10/02*

**STATUS LETTER:** PRINT IN FINAL X REVISE \_\_\_\_\_ N/A \_\_\_\_\_

**REFERRAL LETTER:**

A. Licensee	YES <u>X</u>	NO _____	<u>Concern 2 &amp; 5</u>
B. State of	YES _____	NO _____	
C. DOE	YES _____	NO _____	

date received	July 3, 2002	due date of 1 <sup>st</sup> ARB	August 2, 2002
due date of ACK Ltr	August 2, 2002	date -90 days old	October 1, 2002
date -120 days old	October 31, 2002	date -150 day old	November 30, 2002
date -180 days old	December 30, 2002	date -365 days old	July 3, 2003
projected date for the 5 yr statute of limitation			July 2, 2007

**COMMENTS:**

*SEG*  
 Allegation Review Board Chairman

*9/9/02*  
 Date

SENSITIVE ALLEGATION MATERIAL

AMS No. RIII-02-A-0114

Concern No. 5

An individual is concerned that the action taken against the employees who raised the fitness-for-duty concerns has created an environment for raising a safety concern.

Regulatory Basis:

Chilling effect

I. Action Evaluation: The following method of resolution is recommended (circle):

- ✓ A. Send to Licensee Requesting Response In 30 Days. (Describe the general areas we expect the licensee to address.)
- B. Priority RIII Follow up and Closure Memo to OAC
- C. Follow up During Routine Inspection Within \_\_\_\_\_ Days and Closure Memo to OAC
- D. Refer to OI. Recommended Priority: HIGH NORMAL LOW  
Recommended Basis:
- E. Outside NRC's Jurisdiction. Describe Basis Below.
- F. Too General for Follow-up. Describe Basis Below.
- G. Other (specify) -

Responsible for Action - EICS

II. Special Considerations/Instructions:

Background

Concerns 1, 2, 3 and 4 addressed that (1) craft employees were being unjustly accused that they failed to report the smell of alcohol on an individual; [REDACTED] (3) a supervisor lied to a licensee investigator about being told about the smell of alcohol on an individual; and (4) an individual was not rehired after providing information to the licensee's investigator about the smell of alcohol on an individual.

*outside of scope*

Concerns 1, 3, and 4 are the subject of the OI investigations. Concern 2 will be referred to the licensee after the ARB approves referral of concern 5

**Sensitive allegation material**

**From:** Sandra Dombroski  
**To:** oac3  
**Date:** Wed, Sep 4, 2002 10:20 AM  
**Subject:** DRS Review of OI Report of Interview Kewaunee AMS RIII-02-A-0114

The hardcopy is in the mail.

\*\*\*\*\*

September 3, 2002

**MEMORANDUM TO:** H. Brent Clayton  
Enforcement/Investigation Officer

**FROM:** Cynthia D. Pederson, Director /RA/  
Division of Reactor Safety

**SUBJECT:** OI REPORT OF INTERVIEW KEWAUNEE NUCLEAR POWER PLANT:  
(OI CASE NO. 3-2002-020) (AMS NO. RIII-02-A-0114) AITS NO. S02-  
2309

This responds to J. Heller's memorandum dated August 20, 2002, which forwarded a copy of a "Report of Interview" and requested our review to determine if there were any new safety concerns and whether OI's investigation priority should be changed or is no longer warranted.

We understand that OI's priority assigned to this case was high because it involved potential wrongdoing by a contractor foreman regarding an allegation that he lied to a licensee investigator during an FFD investigation, and that the licensee had allegedly discriminated against the CI because he/she was not rehired after providing information to the licensee that a contractor foreman had smelled of alcohol while at the Kewaunee site.

Our review of the ROI identified that the CI stated that a contract foreman admitted to a named individual (pages 25 and 57) that he had lied to a licensee investigator about being told that a contract foreman smelled of alcohol while at the Kewaunee site. The CI also stated that the licensee engaged in a discriminatory practice by denying the CI site access after he/she had provide information to the licensee that a contract foreman smelled of alcohol while working at the Kewaunee site.

The regulatory basis and potential violation for the alleged concerns were provided to EICS by our memorandum dated July 29, 2002, titled "REVIEW OF CONVERSATION WITH A CI; R-III 2002-A-0114 (KEWAUNEE) AITS NO. S02-2270".

Based on our review of the RIO, a discussion with Mr. Heller of EICS and the assigned OI investigator, it appears that further OI investigation activity at the current level (high) is warranted to disposition the alleged wrongdoing and discrimination issues.

Our review of page 55 of the ROI also resulted in the identification of a new safety concern. The CI alleged that "lot of people at the site would not get involved in raising a fitness-for-duty issue because they had seen what happened to us."

**Sensitive allegation material**

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**Sensitive Allegation Material**

We recommend that this concern (chilling effect) be opened as a new allegation, and forwarded to the licensee for their evaluation and response. In addition, a security inspection is planned at Kewaunee on September 16-20, 2002, that involves review of their behavior observation program and, in part, will focus on the licensee's process for reporting FFD concerns. We will provide our inspection results to EICS in support of the disposition of this concern.

cc: R. Paul, Director, OI, RIII Field Office