



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE ROAD, SUITE 210
LISLE, ILLINOIS 60532-4352

July 20, 2005



7C

SUBJECT: ALLEGATION NO. RIII-05-A-0062

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Dear 

This letter refers to your June 20, 2005 telephone conversation with Paul Pelke in which you stated that you were the subject of discrimination for raising a safety concern while working at the Point Beach Nuclear Power Plant. Enclosure 1 to this letter documents your concern as we understand it. If we have misunderstood or mischaracterized your concern as described in the enclosure, please contact one of the Region III Office Allegation Coordinators at the address provided below.

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 reviewing safety concerns. It includes an important discussion of the NRC's identity protection procedures and limitations on pages 5-7. Mr. Pelke discussed our identity protection program with you on June 20, 2005. You indicated that you **did not object** to having (1) your identity released and (2) the concern referred to the licensee.

Your concern involves your belief that you were the subject of employment discrimination. 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. Members of the Region III technical staff (Messrs. Kunowski and Pelke) will contact you to obtain this information. If you have not been contacted by Messrs. Kunowski and Pelke within 10 days of the date of the letter please contact me at the telephone number provided below and I will ensure that the communication occurs.

We do not investigate all allegations of discrimination and we will use the information obtained from the phone call to determine if an NRC investigation is warranted. An evaluation without identifying you would be extremely difficult. Therefore, if we investigate your claim of discrimination, we will disclose your name during the investigation. Furthermore, the NRC's evaluation of your claim of employment discrimination may take up to 18 months to complete.

Since you believe you were the subject of employment discrimination, you have **180 days** from the date of the alleged discriminatory act 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:

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in accordance with the Freedom of Information
Act, exemptions 7C
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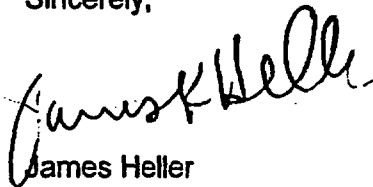
U.S. Department of Labor
Occupational Safety and Health Administration
230 South Dearborn Street, Rm. 3244
Chicago, Illinois 60604
Telephone: (312) 353-2220

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.

Thank you for notifying us of your concern. We will advise you when we have completed our review of this matter. If you have any questions, please contact Paul Pelke or me by writing to the U.S. Nuclear Regulatory Commission, Region III, 2443 Warrenville Road, Suite 210, Lisle, Illinois 60532-4352, or by calling the NRC Region III switchboard toll free at (800) 522-3025. My E-mail address is JKH@nrc.gov and Mr. Pelke's E-mail address is PRP@nrc.gov. If you E-mail us, please send the information to both E-mail addresses and our common E-mail address which is OAC3@nrc.gov. 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-05-A-0062

EXPRESS MAIL

ENCLOSURE

AMS File No. RIII-05-A-0062

Our current understanding of your concern is summarized below. If you have any additional or clarifying information related to this concern, please contact one of the Region III Office Allegation Coordinators at the addresses or telephone number provided in the letter.

Concern 1:

You believe that you were the subject of discrimination (site access denied) for reporting that you inadvertently dropped a wrench from scaffolding that you were constructing. The scaffolding was being constructed near the water box on the 26-foot elevation of the turbine building and the wrench fell from the scaffold, through the 26-foot floor opening and landed next to the water box that is located on the 8-foot elevation.



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Sincerely,

/RA/

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-05-A-0062

EXPRESS MAIL

***SEE PREVIOUS CONCURRENCE**

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| OFFICE | RIII | N | RIII | N | RIII | N |
|--------|---------|---|------------------|---|-------------------|---|
| NAME | Heller* | | Pelke <i>pdn</i> | | Heller <i>pdn</i> | |
| DATE | 7/20/05 | | 7/20/05 | | 7/20/05 | |

** P2 have reviewed the letter & provide comments to Becky Stricklin on 7/20. B Stricklin has incorporated P2 comments & KHell 7/20/05*

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 Occupational Safety and Health Administration
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 Chicago, Illinois 60604
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cc w/enclosure 1: AMS File No. RIII-05-A-0062

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| OFFICE | RIII | N | RIII | N | RIII | N | | |
| NAME | Heller | | Pelke | | Heller | | | |
| DATE | 7/0/05 | | 7/ /05 | | 7/ /05 | | | |

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