

# INVESTIGATION STATUS RECORD

Facility: KEWAUNEE  
Case Number: 3-2002-004  
Docket Number(s): 05000305  
Case Agent: FAHEY, MARY K (MKF)  
Date Opened: 03/25/2002  
ECD:  
Priority: Normal  
Status: Case is Closed  
Case Type: Reactor Power  
Primary Alleg Source: Licensee / Licensee Employee Concern Program  
Allegation Number(s): RIII-2001-A-0176, RIII-2002-A-0114  
Subject/Allegation: DELIBERATE FAILURE BY CONTRACTORS TO FOLLOW FFD REGULATIONS

## Monthly Status Report:

03/25/2002: On November 8, 2001, an emergency ARB was held to address an anonymous complaint alleging that Day Zimmerman NPS (DZNPS) workers violate "many regulations daily." DZNPS is a contractor at the Kewaunee Nuclear Plant (Kewaunee) which provides labor support, including welders, during outages. On November 19, 2001, RIII EICS requested additional information from the licensee concerning the allegations, including an allegation that DZNPS supervisors, "... turn their heads when certain individuals come in half blitzed."

7(c) On February 8, 2002, Nuclear Management Company, LLC (NMC), notified RIII that upon conducting their own internal investigation for the time period from August 2001 to November 2001, NMC identified four DZNPS welders [REDACTED] who stated that on occasion, they perceived the odor of alcohol on the breath of a DZNPS General Foreman, [REDACTED] while inside the Kewaunee protected area and failed to notify their immediate supervisors or other members of management. It was determined that each of these individuals received and successfully passed General Employee Training (GET) classroom instruction and standard testing, which included expectations related to actions to be taken when an individual detects the odor of alcohol on the breath of a plant worker. NMC also determined that when approached by another worker (not further identified) who informed [REDACTED] that someone had complained about the smell of alcohol on him, [REDACTED] offered to be tested, but no testing was subsequently performed. 7(c)

7(c) On March 25, 2002, a RIII ARB requested that OI determine: (1) whether four DZNPS contract welders failed to report fitness-for-duty (FFD) concerns about their foreman, [REDACTED], and (2) whether [REDACTED] failed to self-report and submit to FFD testing, in violation of 10 CFR 26.23 (Contractors and Vendors) and 10 CFR 50.5 (Deliberate Misconduct). STATUS: FWP ECD (90 DAY): 06/2002. Statute of Limitations: 11/2006. 7(c)

04/30/2002: On April 21, 2002, OI requested a copy of the licensee's investigative report W-009-01. The report, with exhibits and a supplemental report, were received in OI:RIII on April 24, 2002. The report is being reviewed to determine the need for additional field work. Two additional welders were identified as being involved in the incident, [REDACTED]. STATUS: FWP ECD (90 DAY): 06/2002.

05/31/2002: Interviews scheduled with [REDACTED] on June 5, 2002, in DePere, Wisconsin, and with [REDACTED] on June 6, 2002, at Point Beach, where he is currently employed. STATUS: FWP ECD (90 DAY): 06/2002. 7(c)

06/30/2002: Interviews conducted with [REDACTED] on June 5, 2002, and [REDACTED] on June 6, 2002. Initial ECD is being set. STATUS: FWP ECD (90 DAY): 09/2002. 7(c)

07/31/2002: On June 26, 2002, Lynn BARTELEME, DZNPS, provided hire and layoff information for welders. [REDACTED] was identified as currently working at Point Beach and can be reached through [REDACTED] his supervisor. On July 2, 2002, [REDACTED] contacted OI concerning the status of the investigation. Final interviews will be scheduled for the week of August 5, 2002. STATUS: FWP ECD (90 DAY): 09/2002. 7(c)

08/05/2002: At an ARB conducted on August 5, 2002, new allegations (AMS RIII-2002-A-0114) were discussed related to this matter. It was determined that Concern Number 3 would be added to this investigation. Concern Number 3 is an allegation by [REDACTED] welder, that [REDACTED] Mechanical and Civil Superintendent, for DZNPS at Kewaunee during the outage in 7(c)

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7(c) 2001, lied to the licensee's investigator about being told about the FFD issue concerning [redacted]. This would be a violation of 10 CFR 26.24(a)(3), which requires in part, that testing for cause shall be initiated as soon as possible . . . after receiving credible information that an individual is abusing alcohol. Additionally, if substantiated, this allegation may be a violation of 10 CFR 50.5, Deliberate Misconduct. (An additional concern (4) of discrimination shall be pursued separately under AMS RIII-2002-A-0114/OI Case No. 3-2002-020). STATUS: FWP ECD: 09/2002.

08/31/2002: Former DZNPS welders [redacted] were interviewed by OI on August 5, 2002. [redacted] and [redacted] provided information that they reported an EFD concern about [redacted] to [redacted] separately, but on the same day. [redacted] denied that he reported [redacted] and was unaware of a concern due to a medical condition in which he has no sense of smell. [redacted] stated that he did not report any FFD concern, because he was unaware of any concern. [redacted] and [redacted] provided additional documentation by fax on August 16, 2002. Former DZNPS welder [redacted] was interviewed on August 29, 2002. [redacted] stated that he reported an FFD concern about [redacted] to [redacted] along with [redacted] after being asked to work for [redacted]. ECD is being changed to accommodate additional concern. STATUS: FWP ECD: 10/2002.

7(c)

09/30/2002: [redacted] former DZNPS Superintendent, was interviewed on September 4, 2002; [redacted] former DZNPS Supervisor, was interviewed on September 12, 2002; and [redacted] was re-interviewed on September 12, 2002. On September 17, 2002, Randy CLEVELAND, Access Manager, NMC, was interviewed in Hudson, WI, for this case and 3-2002-020. Fieldwork is complete. ROI is being drafted. ECD is being changed due to other office priorities (3-2002-006). STATUS: RID ECD: 11/2002.

7(c)

10/31/2002: ROI in draft. STATUS: RID ECD: 11/2002.

11/29/2002: Case closed 11/29/2002 (substantiated). ROI will be issued out of OI:HQ.

12/05/2002: Case issued 12/05/2002 out of OI:HQ (substantiated).

07/31/2003: Pre-decisional enforcement conference was held with licensee on July 16, 2003. A separate conference will be held with [redacted] on August 5, 2003, in Region III.

7(c)

12/31/2003: A pre-decisional enforcement conference was held with DZNPS Supervisor [redacted] in RIII on August 5, 2003. Additional information was provided to OE by the licensee via letter dated August 29, 2003.

7(c)

On December 30, 2003, RIII issued a NOV (EA-03-105) and Proposed Imposition of Civil Penalty (Severity Level III - \$60,000) to NMC for failure, "...to implement effective monitoring procedures to provide reasonable assurance that personnel with access are fit for duty, and the licensee failed to conduct an investigation of the circumstances or evaluate the risk involved in continued unescorted access of an employee after detecting evidence of behavior which may have impaired the job performance of an employee....The supervisor was informed that the employee was a heavy drinker and that the employee was reputed to have an alcohol problem. However, the supervisor failed to take corrective measures including investigation of the circumstances or sending the employee to for-cause Fitness for Duty testing."

7c

02/29/2004: Per OAC:RIII, NMC paid the civil penalty on January 29, 2004, and did not contest the violation. This case will no longer be monitored.

Completion Date:	11/29/2002	Total Staff Hours:	275.5
Issue Date:	12/05/2002	Months Open:	8.3
DOJ Action(s):	Declination - 11/21/2002 Declination - 11/21/2002	DOJ Referral Date:	11/21/2002
OI Violation(s):	Atomic Energy Act - Substantiated, False Statement - Substantiated	Statute of Limitations Date:	11/08/2006

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Facility: KEWAUNEE  
Case Number: 3-2002-004  
OE Action: 2003105: PROCESSING COMPLETE  
Action: NOV/CP on December 30, 2003  
Proposed Amount: \$ 60,000 on December 30, 2003  
Paid Amount: \$ 60,000 on January 29, 2004  
OE Action: 2003106: PROCESSING COMPLETE  
Action: LTR on December 30, 2003

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