

United States  
Nuclear Regulatory Commission



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# Report of Investigation

**KEWAUNEE NUCLEAR POWER PLANT:**

**Deliberate Failure by Contractors to Follow Fitness  
for Duty Regulations and Deliberate False Statements**

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Office of Investigations

Reported by OI:RIII

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H-63

Title: KEWAUNEE NUCLEAR POWER PLANT:

**DELIBERATE FAILURE BY CONTRACTORS TO FOLLOW FITNESS FOR  
DUTY REGULATIONS AND DELIBERATE FALSE STATEMENTS**

Licensee:

Nuclear Management Company, LLC  
6610 Nuclear Road  
Two Rivers, WI 54241

Docket No.: 50-305

Reported by:

*Mary Kay Fahey*

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Office of Investigations  
Field Office, Region III

Case No.: 3-2002-004

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Office of Investigations  
Field Office, Region III

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## SYNOPSIS

This investigation was initiated by the U. S. Nuclear Regulatory Commission, Office of Investigations (OI), Region III, on March 25, 2002, to determine whether contract welders failed to report Fitness-For-Duty (FFD) concerns about their Foreman, and to determine whether the contract Foreman deliberately failed to self-report and submit to FFD testing at the Kewaunee Nuclear Power Plant during a fall outage in 2001. Additionally, on August 5, 2002, OI was asked to determine whether the contract Mechanical and Civil Superintendent deliberately provided false information to the licensee's investigator relative to being told about the FFD concern involving the Foreman.

**Allegation 1:** Based upon the evidence developed, the investigation did not substantiate that contract welders deliberately failed to report FFD concerns. However, based upon the evidence developed, the investigation did substantiate that the contract Mechanical and Civil Superintendent deliberately failed to report an FFD concern involving a Foreman.

**Allegation 2:** Based upon the evidence developed, the investigation did not substantiate that the Foreman deliberately failed to self-report and submit to FFD testing.

**Allegation 3:** Based upon the evidence developed, the investigation substantiated that the contract Mechanical and Civil Superintendent deliberately provided false information to both OI and the licensee's investigator relative to being informed about the FFD concern involving a Foreman.

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## DETAILS OF INVESTIGATION

### Applicable Regulations

10 CFR 26.23: Contractors and vendors (2001)(Allegations 1, 2 and 3)  
10 CFR 26.24(a): Chemical and alcohol testing (2001)(Allegations 1,2 and 3)  
10 CFR 50.5: Deliberate Misconduct (2001)(2002)(Allegations 1, 2 and 3)  
18 U.S.C. 1001 False Statements (2002)(Allegation 3)

### Purpose of Investigation

This investigation was initiated by the U. S. Nuclear Regulatory Commission, Office of Investigations (OI), Region III (RIII), on March 25, 2002, to determine whether Day and Zimmerman Nuclear Power Systems (DZNPS) welders deliberately failed to report Fitness-For-Duty (FFD) concerns about their Foreman, [REDACTED] and to determine whether [REDACTED] deliberately failed to self-report and submit to FFD testing at the Kewaunee Nuclear Power Plant (KNPP) during a fall outage in 2001. Additionally, on August 5, 2002, OI was asked to determine whether [REDACTED] Mechanical and Civil Superintendent, DZNPS, deliberately provided false information to the licensee's investigator and to OI, relative to being told about the FFD concern involving [REDACTED].

### Background

On November 8, 2001, an emergency Allegation Review Board (ARB) was held to address an anonymous complaint alleging that DZNPS workers violate "many regulations daily." At the time of the allegations, DZNPS was a contractor at KNPP which provided labor support, including welders, during outages. On November 19, 2001, RIII Enforcement and Investigation Coordination Staff 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."

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] and [REDACTED] who stated that, on occasion, they perceived the odor of alcohol on the breath of DZNPS General Foreman, [REDACTED], while inside the KNPP 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

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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.

On March 25, 2002, a RIII ARB requested that OI determine: (1) whether four DZNPS contract welders deliberately failed to report FFD concerns about their foreman, [REDACTED]; and (2) whether [REDACTED] deliberately 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) (Exhibit 1).

Additionally, on August 5, 2002, a RIII ARB requested that OI determine whether [REDACTED] deliberately provided false information to the licensee's investigator and to OI, about being told about the FFD concern involving [REDACTED], in violation of 10 CFR 26.24(a)(3), Chemical and Alcohol Testing (Exhibit 2).

#### Coordination with Regional Staff

On March 25, 2002, and August 5, 2002, an ARB requested that OI initiate an investigation to determine whether DZNPS welders deliberately failed to report FFD concerns and whether the DZNPS Superintendent deliberately lied relative to being told about the FFD concern in violation of 10 CFR 26.23, 10 CFR 26.24(a)(3), and 10 CFR 50.5.

#### Coordination with the Regional Counsel

This investigation was initiated with the concurrence of the NRC RIII Counsel, Bruce A. BERSON, [REDACTED] 5

#### Licensee Investigative Report(s)

On April 22, 2002, upon the request of OI, NMC provided a copy of their internal investigative report which identified the FFD concerns during the Fall outage, 2001. NMC provided OI with a copy of Walker Investigative Consultants, Inc.'s (WIC) Report of Investigation for KNPP, Report No. W-009-01 NMC/ECP No. 01-18, which included a Report of Investigation dated January 7, 2002, associated Exhibits (Exhibit 3), and a Supplemental Report, dated January 30, 2002 (Exhibit 4).

The internal investigation was conducted to address a number of issues, one of them being to determine whether DZNPS employees were known to have worked at KNPP while unfit for duty.

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Additionally, the internal investigation addressed whether any DZNPS supervisors were aware of this conduct and the actions taken when the supervisors became aware of such conduct (Exhibit 3, pp. 2-5, 8).

The internal investigation concluded,

“The below identified individuals, all of whom have received training and have successfully completed General Employee Training (GET) testing at KNPP stated that they, on occasion, detected what they believed to be the odor of alcohol, to varying degrees, on the breath of Mr. [REDACTED] DZNPS Inservice Inspection (ISI) General Foreman, inside the protected area of KNPP. However, they witnessed no additional behavior causing them to believe he was in any manner unfit for duty. Mr. [REDACTED] Civil and Mechanical Welding Supervisor, suggested a medical condition may have contributed to the slight/almost imperceptible odor of residual alcohol, which he believed to be insufficient to trigger the reporting of Mr. [REDACTED] Mr. [REDACTED] former DZNPS contract welder, believed that as Mr. [REDACTED] was a supervisor, the other DZNPS supervisors were already aware of the smell, therefore reporting was unnecessary; Mr. [REDACTED] alleged fear of union retaliation as his reason for not reporting Mr. [REDACTED] alleged smell of alcohol, and Mr. [REDACTED] considered it not his job ‘to sniff’ Mr. [REDACTED]

It is clear however that the individuals were aware of the intent and expectations of NMC/KNPP, through their having successfully completed the KNPP GET training, that the suspected use of alcohol must be immediately reported to their supervisor, etc. however, for various reasons, they choose to interpret this policy as requiring more than the mere smell of alcohol to trigger or report, such as slurred speech, aberrant behavior, or an unsteady gait” (Exhibit 3, p. 4).

The Supplemental Investigation to W-009-01 was conducted to address several issues, one of which was to determine whether [REDACTED] a former DZNPS welder, had informed [REDACTED] that [REDACTED] breath smelled of alcohol, as alleged by former DZNPS welder [REDACTED] (Exhibit 4).

The Supplemental Investigation concluded,

“Mr. [REDACTED] did not report Mr. [REDACTED] alleged smell of alcohol to [REDACTED] as alleged by Mr. [REDACTED]

Mr. [REDACTED] partially contradicted Mr. [REDACTED] allegation. Mr. [REDACTED] confirmed that he smelled alcohol on the breath of Mr. [REDACTED], adding that he also smelled alcohol on

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the breath of Mr. [REDACTED] during his (Mr. [REDACTED]) employment at KNPP. However, he stated, in contradiction to Mr. [REDACTED] allegation, that he (Mr. [REDACTED]) did not report this to anyone.

Mr. [REDACTED] said that he was a [REDACTED] working out of Plumbers and Steamfitters Union Local 400, Green Bay, WI, rather than his own union local in [REDACTED]. Many of the Local 400 Union members, according to Mr. [REDACTED] didn't much like his working at KNPP, while other Union members of Local 400 were not working. He said he didn't want to 'create waves,' so he 'kept his eyes open and his mouth shut.'" (Exhibit 4, p. 3).

### Review of Documentation

WIC Report of Interview(s) with [REDACTED] DZNPS Welder, dated December 6, 9, and 11, 2001, prepared by licensee's investigator. According to the reports, [REDACTED] admitted having smelled alcohol on the breath of [REDACTED] but had no knowledge of [REDACTED] consuming alcohol inside the protected area of KNPP, and [REDACTED] did not appear impaired in any manner. [REDACTED] stated he did not report his observation because the DZNPS supervisors were aware of [REDACTED] condition and because [REDACTED] was a fellow worker. The DZNPS supervisors were identified as [REDACTED] and [REDACTED] (Exhibit 5).

WIC Report of Telephone Interview with [REDACTED] DZNPS Welder, dated December 10, 2001, prepared by licensee's investigator. According to the report, [REDACTED] stated he has known [REDACTED] for approximately 15 years through Local 400. He also stated that he was aware that [REDACTED] was a heavy drinker, and smelled of alcohol at the KNPP site. [REDACTED] indicated that he did not report [REDACTED] to security or anyone else at the plant because he feared possible repercussions from the union. [REDACTED] denied that he feared repercussions from NMC or DZNPS (Exhibit 6).

WIC Report of Interview(s) with [REDACTED] DZNPS Civil and Mechanical Welding Supervisor, dated December 5, 2001, and December 11, 2001, prepared by licensee's investigator, including draft copy and handwritten notes of the investigator. According to the reports, [REDACTED] told the investigator that [REDACTED] "was known to have occasionally exhibited the smell of alcohol on his breath while inside the KNPP protected area." [REDACTED] suggested that the smell of alcohol was the result of a medical condition from a [REDACTED]. [REDACTED] stated that he never observed [REDACTED] to be impaired in any manner and dismissed the "slight and sometimes barely/almost imperceptible smell of residual alcohol on the breath of Mr. [REDACTED]. [REDACTED] had no knowledge of [REDACTED] being suspected of intoxication, nor had [REDACTED] undergone "for cause" FFD testing. [REDACTED] claimed that

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if he suspected [REDACTED] was impaired in any manner or under the influence of alcohol, [REDACTED] would have initiated an FFD evaluation. [REDACTED] claimed that he would have had [REDACTED] asked if he believed he had been drinking within the 5-hour limit. [REDACTED] told the investigator, "There is no policy that I am aware of where [REDACTED] was breaking any D&S [DZNPS] rules" (Exhibit 7).

WIC Report of Telephone Interview with [REDACTED] DZNPS Welder, dated December 9, 2001, prepared by licensee's investigator. According to the report, [REDACTED] provided information indicating that he was "pulled" from the entry gate and requested to take a Breathalyzer test, with negative results. [REDACTED] told the investigator that he was in close proximity to [REDACTED] and it was [REDACTED] belief that the smell of alcohol emanated from [REDACTED] and drifted back to [REDACTED] who was selected to be tested. [REDACTED] stated it was not uncommon for [REDACTED] to smell of alcohol in the mornings but not appear to be impaired. He added that if he had seen [REDACTED] "stumbling around" he would have turned him in to the appropriate parties. [REDACTED] suggested that if [REDACTED] was unfit for duty, his crew should have reported the matter. [REDACTED] stated that it was not his job to "sniff" [REDACTED] (Exhibit 8).

WIC Report of Telephone Conversation with [REDACTED] DZNPS welder, dated January 15, 2002, prepared by licensee's investigator. According to the report, [REDACTED] stated that, "... two people occasionally smelled of alcohol. He identified the two individuals as Mr. [REDACTED] and Mr. [REDACTED]." [REDACTED] told the investigator that he did not report his concerns about the smell of alcohol. According to the investigator, [REDACTED] explained that because he was a [REDACTED] he did not want to "create waves," so he "kept his eyes open and his mouth shut." During a second conversation later the same day, January 15, 2002, the licensee's investigator reported that [REDACTED] again stated that, "he did not tell anyone about the odor of alcohol, reiterating his earlier comments that he kept his mouth shut on the issue" (Exhibit 9).

Agent's Note: [REDACTED] 7c

WIC Report of Telephone Interview with [REDACTED] DZNPS Night Supervisor, dated December 17, 2001, prepared by licensee's investigator. According to the report, [REDACTED] denied any knowledge of DZNPS employees who had been known to work at KNPP while unfit for duty. He also denied any knowledge from any source of anyone working inside the KNPP protected area while exhibiting the smell of alcohol. [REDACTED] also denied the he had knowledge of [REDACTED] exhibiting the smell of alcohol on his breath, inside the KNPP protected area (Exhibit 10, pp. 2-3).

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WIC Report of Telephone Interview with [REDACTED] DZNPS Site Superintendent, dated December 11, 2001, prepared by licensee's investigator. According to the report, [REDACTED] stated he was unaware of anyone working at KNPP in violation of the FFD policy. He also stated that he had not smelled alcohol on the breath of [REDACTED] while working at KNPP. [REDACTED] advised that he had attended Continual Behavior Observation Program (CBOP) training at Point Beach Nuclear Plant, not at KNPP, and believed [REDACTED] may have attended the same training (Exhibit 11, p. 3).

WIC Report of Interview with Darlene PETERS, Security Administrative Supervisor, KNPP, dated December 7, 2001, prepared by licensee's investigator. According to the report, PETERS stated there was no record of FFD involvement for either [REDACTED] or [REDACTED]. PETERS also stated that should an individual be randomly selected for FFD testing, no record would be maintained (Exhibit 12).

WIC Report of Telephone Interview(s) of [REDACTED] DZNPS Welder, dated January 11, 2002, and January 12, 2002, prepared by licensee's investigator. According to the report, [REDACTED] told the investigator that [REDACTED] a DZNPS General Foreman, "... routinely, and strongly," smelled of alcohol. [REDACTED] stated that he had been randomly selected on two occasions to be FFD tested while at KNPP, and it was [REDACTED] who was sent to retrieve [REDACTED] from work and escort [REDACTED] to the testing area. [REDACTED] claimed that on the second occasion, he made comments to the nurse conducting the examination about [REDACTED] condition. [REDACTED] stated that he and [REDACTED] had attempted to report [REDACTED] to both [REDACTED] and [REDACTED] but were ignored and told not to worry about it (Exhibit 13, p. 4).

KNPP Nuclear Administrative Directive NAD-01.04, Rev. C, FFD Program, dated November 16, 1999. Section 5.11 states, "It is the responsibility of every employee to report to supervision incidents where a fellow employee may endanger the safety of himself or others, harm customer service or relations, or damage property or equipment of the Company, customer, or the general public." Section 5.15 states, "Plant Supervision shall be notified and determine if the person is fit for duty and if access should be granted" (Exhibit 30).

Portion of KNPP GET Training pertaining to Access Authorization & FFD, undated. The policy states that a worker shall, "Prevent and report actions that threaten the company or coworkers (includes reporting personnel with symptoms of substance abuse)" (Exhibit 31).

### Evidence

The testimony provided during interviews was reviewed regarding the allegation involved in this investigation. In addition, various documents related to the allegation, which are listed in the

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Review of Documents section of this report, were also reviewed. Copies of the interviews and documents obtained by OI:RIII are attached as exhibits to this report.

Interview of [REDACTED]

Agent's Note: [REDACTED] advised at the onset of the OI interview that on February 23, 2002,

[REDACTED] was interviewed by OI on August 29, 2002. [REDACTED] stated that he worked as a welder for DZNPS at KNPP from approximately May 5, 2001, until he was laid off on October 12, 2001, when the job was completed (Exhibit 14, pp. 3, 5).

[REDACTED] stated that he raised FFD concerns about [REDACTED] because he felt there was a, "Possibility of coming to work under the influence of alcohol." [REDACTED] explained that he reached that conclusion because of the odor of alcohol upon [REDACTED] and rumors within the plant about [REDACTED] smelling of alcohol. [REDACTED] also qualified his opinion by stating that to watch [REDACTED] walk, he did not believe he was unfit or impaired, but based upon the smell, it was possible. He also added "I'm not an expert on alcohol." [REDACTED] stated that he interacted with [REDACTED] at KNPP on only one day, on which [REDACTED] and [REDACTED] were assigned to work for [REDACTED]. [REDACTED] stated, "I told my supervisor that I felt uncomfortable working for this man because of the possibility of him being drunk." [REDACTED] acknowledged that this was the same day that he was aware of the smell of alcohol on [REDACTED]. [REDACTED] could not identify the exact date, but recalled that it was during their pre-outage work, and was near the end of July 2001. [REDACTED] stated that he reported his concern to [REDACTED] his supervisor, about an hour after starting time, which would have been around 8:00 am. He recalled that the conversation with [REDACTED] took place in the pre-fabrication shop and [REDACTED] was also present. [REDACTED] also stated, "And if I'm not mistaken, under Kewaunee Nuclear Plant FFD rules and regulations that is my responsibility is to report it to my immediate supervisor" (Exhibit 14, pp. 7-11).

[REDACTED] stated that he could not recall [REDACTED] exact response, but [REDACTED] indicated that [REDACTED] should not worry about it, that [REDACTED] would take care of the situation. [REDACTED] stated that no one was assigned to work for [REDACTED] that day. [REDACTED] stated that he did not know whether [REDACTED] was requested to be FFD tested. He recalled that he did not see [REDACTED] for the rest of the day (Exhibit 14, p. 10, 14).

[REDACTED] stated that later the same day, close to the end of the workday, he also informed [REDACTED] about his FFD concern involving [REDACTED]. [REDACTED] could not recall [REDACTED] response, but felt that [REDACTED] acknowledged that [REDACTED] had given him the information. [REDACTED] stated that he

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also mentioned his concern to [REDACTED] DZNPS Office Manager, later that evening after work (Exhibit 14, pp. 11-14).

[REDACTED] acknowledged that once the concern had been raised, "that was the end of it as far as I was concerned there was nothing else ever said about it." [REDACTED] stated that following the layoff, he returned [REDACTED]. He recalled that on January 14, 2002, he was contacted by telephone through the union hall by the licensee's investigator. [REDACTED] recalled that he spoke with the investigator by telephone twice on the same day, the initial telephone call and a second call to verify a statement that [REDACTED] had made during the initial conversation (Exhibit 14, pp. 21-24).

[REDACTED] stated, "He asked me about three different items and he got all my comments about different items was all put into one paragraph that had to do with this FFD thing." [REDACTED] stated that he had obtained a copy of the licensee's investigative report and had reviewed the investigator's report of the interview conducted with [REDACTED]. [REDACTED] stated, "The entire document, including all their findings and everything was about six or seven pages. But there was one page that had a paragraph written by them that was supposed to be a quote from me." [REDACTED] explained that he actually made the comments to the investigator, "But they're saying I said it pertaining to the FFD violation and in fact, it was not said in context to the FFD violation. It was said about something else" (Exhibit 14, pp. 24-26).

[REDACTED] explained the discrepancy to OI. He stated that he made statements concerning a welding issue and told the licensee's investigator. "The quote that I told him was that I was not a member of the Local 400 up there, Local Union 400. I was a [REDACTED] and I was told by Mr. [REDACTED] that I needed to keep my mouth shut. So in order for me to keep my job, I kept my mouth shut. I didn't say nothing. I didn't raise any concerns about it. That (sic) was enough people on that job that knew about it." [REDACTED] confirmed that he was speaking about the welding issues and not the FFD concern. [REDACTED] also acknowledged that this information gave the perception that he had not reported his concern about [REDACTED] because he was a [REDACTED] and did not want to create any trouble. [REDACTED] reiterated that on the day he identified an FFD concern involving [REDACTED] reported that concern (Exhibit 14, pp. 26-27).

[REDACTED] denied that he told the licensee's investigator that he did not report the FFD concern involving the smell of alcohol to anyone. [REDACTED] stated, "No, I told him I did report it." [REDACTED] acknowledged that he told the licensee's investigator that he reported the concern to [REDACTED] (Exhibit 14, p. 34).

[REDACTED] also acknowledged that he learned the next day, that [REDACTED] had also reported an FFD concern about [REDACTED] on the previous day. [REDACTED] acknowledged that neither he nor [REDACTED] knew that the other had reported an FFD concern involving [REDACTED] until the next

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day, nor had they discussed the concern before reporting. [REDACTED] stated that [REDACTED] told him that [REDACTED] had reported the concern to [REDACTED] (Exhibit 14, pp. 28-29).

[REDACTED] acknowledged that when he arrived on site at KNPP, he received GET training, which was provided by NMC. He acknowledged that he was tested and passed the required test, recalling that there were specific questions about FFD. [REDACTED] stated, "...the responsibilities of workers is to report it [FFD concern] to their immediate supervisor. . . which was [REDACTED]" [REDACTED] acknowledged that he felt that he followed the NMC procedure in reporting an FFD concern (Exhibit 14, p. 31-33).

[REDACTED] also acknowledged that there was some animosity between he and [REDACTED] prior to the incident involving [REDACTED] stated that [REDACTED] was a member of Local 400, Green Bay, WI, "...and he [REDACTED] felt that I did not need to be there." [REDACTED] further stated that he tried to stay clear of [REDACTED], but [REDACTED] "watched me like a hawk." [REDACTED] also stated that there was some animosity between [REDACTED] and [REDACTED] "Oh yeah, they fought like cats and dogs. Everybody knows that. But then again, it was just - - it wasn't nothing major, but it was just differences of opinion, you know." [REDACTED] denied that there was any animosity between he and [REDACTED], and denied that his raising the FFD concern was in retaliation. [REDACTED] acknowledged that he did not know [REDACTED] prior to arriving at KNPP (Exhibit 14, pp. 37, 39-40).

[REDACTED] speculated that [REDACTED] denial that [REDACTED] had raised a FFD concern could be retaliation for coming from [REDACTED] "He had animosity towards me for being [REDACTED]" [REDACTED] Okay. Also, he knows that if he was to have told Security when they did their investigating and I mean NMC, when they did their investigation, the initial investigation about this, if he had told them that we did tell him, then that would put him in hot water. He could possibly lose his access.... Because we find out now that nothing was done about it when it was reported, so therefore that would put him in the hot seat, instead of us" (Exhibit 14, pp. 37-38).

[REDACTED] denied that there was any unspoken rule at KNPP or with the union, about reporting another worker for an FFD concern. [REDACTED] confirmed that he would not be hesitant to report an FFD concern at either KNPP or Point Beach Nuclear Plant in the future. However, he added, "...it would be documented right there when I reported, made a report" (Exhibit 14, p. 42).

[REDACTED] stated that in approximately January 2002, he took a call to work at the Davis Besse Nuclear Power Plant (Davis Besse), and discovered when he arrived on site that he would be working for DZNPS. He recalled that on his third day on site, "... I was removed from site with armed security and was not told why until I was removed from the site." [REDACTED] stated that he

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was told that he had been denied access at KNPP and therefore, Davis Besse was not going to grant him access because of an FFD issue (Exhibit 14, pp. 43-44).

██████████ stated that he contacted NMC to determine the reason his access had been denied. ██████████ recalled that he spoke with PETERS, who told him only that he was under investigation for an FFD violation. ██████████ stated that he received a registered letter from NMC which explained why he was denied access. "This letter that I got from them did officially deny my access for a period of one year which the period began September of my denial of unescorted access was due to untrustworthiness." ██████████ also spoke with Randy CLEVELAND, NMC Access Manager, who did not provide any information. ██████████ stated that the letter from NMC described the process for appealing NMC's decision and ██████████ appealed their decision. He stated that in response to his appeal, NMC continued to deny his access. ██████████ acknowledged that he intended to resubmit an appeal to NMC on September 1, 2002 (Exhibit 14, pp. 44-47).

██████████ stated that he subsequently learned in early Spring 2002, that ██████████ had lied about he and ██████████ telling ██████████ that ██████████ had the smell of alcohol on him. ██████████ stated that he had a telephone conversation with ██████████ during which ██████████ told ██████████ that ██████████ had admitted lying to the licensee. ██████████ explained that he had retained legal counsel when his access had been denied, and his attorney contacted ██████████ and conducted a deposition via telephone. ██████████ stated, "I have an affidavit from ██████████ stating that ██████████ admitted he lied to security when they interviewed Mr. ██████████. ██████████ explained that he was not present during the deposition by telephone, but his attorney prepared a typed affidavit and sent it to ██████████ for ██████████ signature. ██████████ acknowledged that ██████████ refused to sign the affidavit (Exhibit 14, pp. 17-20).

According to ██████████ . . . he [██████████] feels that if he was to sign this deposition, him working for under the direct supervisor of ██████████, then ██████████ will find a way to terminate him and that's what he's afraid of. So he refuses to sign the affidavit. He doesn't refute the fact that the statements are true. He's refusing to sign it because of retribution" (Exhibit 14, p. 20).

Interview of ██████████

██████████ was interviewed by OI on August 5, 2002. ██████████ is a welder who was employed by DZNPS at KNPP. ██████████ could not recall the exact dates of employment at KNPP, but was employed until November 2001, at which time he went to work at NMC's Point Beach Nuclear Plant (Exhibit 15, pp. 1, 4-6).

██████████ acknowledged that during the 2001 outage at KNPP, he raised an FFD concern about ██████████ "Because he smelled of alcohol." ██████████ acknowledged that he observed no other signs of impairment, but qualified his answer by stating, ". . . I don't claim to be a doctor,

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cop. I just know he smelled of booze, alcohol" (Exhibit 15, pp. 13-14).

[REDACTED] recalled that he reported the concern with [REDACTED] Some time in July, pre-outage, but not during the first week during which [REDACTED] supervised [REDACTED] and [REDACTED] stated that he worked in a small utility shed, "fabbing stuff," and when [REDACTED] walked by [REDACTED] could smell alcohol. "[REDACTED] and I confronted [REDACTED] and then flat out told him I'm not working for that man. I'm not working around that guy." [REDACTED] stated that [REDACTED] "blew it off...We told him and he just kind of said - - just blew it off. He didn't really say much about anything." [REDACTED] recalled that he and [REDACTED] were standing outside the shack and [REDACTED] confronted [REDACTED] first. [REDACTED] kind of looked at me, kind of shrugged his shoulders and to be honest his reply I cannot remember word for word. To paraphrase, it was basically like it didn't matter, who cares, something on that end. And that's a paraphrase, not a word for word." [REDACTED] acknowledged that he did not raise the FFD concern to anyone else (Exhibit 15, pp. 15-19).

[REDACTED] stated that he told two other welders, [REDACTED] and possibly [REDACTED] that he had just reported [REDACTED] to [REDACTED]. [REDACTED] recalled that [REDACTED] claimed to have also told [REDACTED] the same thing (Exhibit 15, pp. 32-33).

[REDACTED] stated that he subsequently learned that [REDACTED] supervisor claimed that he was aware that [REDACTED] had reported the concern to [REDACTED]. [REDACTED] stated that he also retained legal counsel when his access had been denied. [REDACTED] stated that, [REDACTED] been lying about this and the reason our access is denied basically right now is because he said we never told him." [REDACTED] explained that it was his understanding that [REDACTED] had been interviewed by telephone by the attorney and [REDACTED] was asked to sign an affidavit corroborating statements [REDACTED] made during the telephone conversation. [REDACTED] stated that [REDACTED] confirmed that he did, in fact, have a conversation with the attorney, and [REDACTED] explained to [REDACTED] that the reason he refused to sign the affidavit was because he was not sure whether the affidavit was an accurate characterization of what was said during the telephone call (Exhibit 15, pp. 20-24).

According to [REDACTED] told him that he had a conversation with [REDACTED] in approximately July 2002, during which [REDACTED] "...admitted to [REDACTED] he lied to Hal Walker saying that we never told him" (Exhibit 15, pp. 25-26).

Agent's Note: Hal WALKER, Walker Investigative Consultants, Inc., conducted the licensee's investigation.

[REDACTED] explained to OI his understanding of the FFD rules if one would suspect another worker was unfit for duty. [REDACTED] stated that you were supposed to "Contact your

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immediate supervisor." [REDACTED] stated that he knew that [REDACTED] had been not been FFD tested because he asked [REDACTED]. [REDACTED] added that [REDACTED] learned after the fact that [REDACTED] had reported him to [REDACTED] (Exhibit 15, pp. 29-32).

[REDACTED] stated that he was subsequently contacted by the licensee's investigator about welding concerns at KNPP. [REDACTED] stated that towards the end of the conversation, he was asked questions about [REDACTED]. [REDACTED] stated that he told the investigator that he had told [REDACTED] about his concern. [REDACTED] acknowledged that he felt he made some, "very casual," comments to the investigator that he would not have made had he known they would end up in a report (Exhibit 15, pp. 34-37).

[REDACTED] denied that there was any animosity between he and [REDACTED] since [REDACTED] had never met [REDACTED]. [REDACTED] also denied any animosity between he and [REDACTED], claiming that [REDACTED] had previously worked for him. [REDACTED] did admit that he and [REDACTED] ". . . had some fallout, dragout (sic) arguments over [the welding issues]." [REDACTED] denied that he raised the FFD issue in retaliation against [REDACTED] or [REDACTED] (Exhibit 15, pp. 38-40).

Agent's Note: [REDACTED] also raised an allegation of discrimination during the OI interview. That allegation was investigated under OI Case No.: 3-2002-020.

#### Interview of [REDACTED]

[REDACTED] was interviewed by OI on August 5, 2002. [REDACTED] is a welder and was formerly employed by DZNPS at KNPP from approximately June to mid-November 2001 (Exhibit 16, pp. 1-4).

[REDACTED] recalled that upon arrival at KNPP, he attended GET training, which included discussion about FFD procedures. [REDACTED] acknowledged that he was tested, and passed the GET exam, which included questions about FFD. [REDACTED] stated that it was his understanding that an FFD concern should be reported to, ". . . your immediate supervisor." [REDACTED] identified [REDACTED] as his immediate supervisor for DZNPS at KNPP (Exhibit 16, pp. 6-7).

[REDACTED] stated that some time between June and November 2001, he reported an FFD concern about [REDACTED]. [REDACTED] explained that he had been ". . . visiting the boys in the back," and he could smell alcohol on [REDACTED]. [REDACTED] stated that he reported the concern to [REDACTED], but later learned that [REDACTED] and [REDACTED] had also reported the same thing. "We had both done it on the same day. They done it prior to myself, because I had - - [REDACTED] was coming through the maintenance shop, and that's when I had stopped [REDACTED] and told him about [REDACTED] smelling of alcohol." [REDACTED] stated that [REDACTED] told him that he would

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look into the matter. "He said he would look into it, and that's far as it went, was right there, because we figured you tell him, he's going to take care of the problem, and I didn't see [REDACTED] anymore that day, so I just took it as he took care of the problem." [REDACTED] stated that he did not know whether [REDACTED] was FFD tested (Exhibit 16, pp. 7-11).

[REDACTED] recalled that the issue resurfaced in December, after he had been laid off and was not working. [REDACTED] stated that an, "NMC investigator," telephoned him about some welding issues, "...and next thing you know he asked me if I knew about a fellow that smelled of alcohol. That was my mistake; I said, 'yes.' Because the rest of them - - got plenty of others that didn't - - they said they didn't know nothing of it. They didn't lose their access. Seems like the ones that admitted to knowing of it lost access." [REDACTED] recalled that the investigator did not ask him whether [REDACTED] had talked to anybody about it (Exhibit 16, pp. 12- 13).

[REDACTED] stated that he subsequently learned that his plant access had been denied, because according to the NMC investigator, "...I did not tell Kewaunee supervisor or Kewaunee security about an individual smelling of alcohol." [REDACTED] stated that the KNPP FFD programs says you report an FFD incident to your immediate supervisor, and [REDACTED] reported his concern to the contract supervisor (Exhibit 16, pp. 14-15).

It was pointed out to [REDACTED] during the OI interview that there was nothing in the NMC investigative report which indicated that [REDACTED] told the investigator that he reported his concern about [REDACTED] to [REDACTED]. [REDACTED] acknowledged that he recalled specifically speaking with [REDACTED] about the matter and it was the same day that [REDACTED] and [REDACTED] acknowledged that had also raised the same concern. [REDACTED] reiterated that he did, in fact, report an FFD concern about [REDACTED] to [REDACTED] (Exhibit 16, pp. 25-27).

[REDACTED] stated that in the past, he had reported an FFD concern at Point Beach and had no problem. [REDACTED] explained that in that case, the process worked, the worker was tested, and [REDACTED] did not get in trouble for reporting the incident (Exhibit 16, pp. 18-19).

#### Interview of [REDACTED]

[REDACTED] was interviewed by OI on August 5, 2002. [REDACTED] is a welder who was employed by DZNPS at KNPP from approximately July 2001 through the end of the outage in November 2001 (Exhibit 17, pp. 1-4).

[REDACTED] acknowledged that he attended routine GET training upon his arrival at KNPP. He acknowledged that the FFD program was discussed, but did not recall whether the GET test contained any material related to the FFD program. [REDACTED] stated that it was his understanding that should a FFD concern arise, "We're supposed to report it to our supervisor or to

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management, and to security, the guardhouse.” [REDACTED] recalled that at the time, his DZNPS supervisors were [REDACTED] on the night shift, and [REDACTED] on the day shift (Exhibit 17, pp. 5-7).

[REDACTED] stated that while employed at KNPP, he did not report any employee that was suspected of being unfit for duty, nor did he report any employee who smelled of alcohol. [REDACTED] stated that some time during the pre-outage phase, he was FFD tested. [REDACTED] explained that he had entered the plant at approximately 7:00 am, and upon arrival to his work area, he was paged to report to the nurse for a random FFD test. [REDACTED] stated that he was tested, and there were no problems. [REDACTED] stated that he was given a Breathalyzer test, and not the routine urine test. [REDACTED] surmised that he was given the Breathalyzer because somebody had smelled alcohol. [REDACTED] stated that in retrospect, he recalled that when he entered the plant, he was in close proximity to [REDACTED]. [REDACTED] later approached [REDACTED] about his being tested and [REDACTED] said not to worry about it, he would check it out. [REDACTED] recalled that nothing more was said about the matter (Exhibit 17, pp. 7-11, 15).

[REDACTED] stated that he has worked with [REDACTED] since 1995, and [REDACTED] did not smell like alcohol to his knowledge. He stated that he was not aware of anyone else raising an FFD concern about [REDACTED]. [REDACTED] stated that the matter was dropped until he was contacted by the licensee’s investigator. [REDACTED] acknowledged that he had not told the licensee investigator anything different that he had told OI (Exhibit 17, pp. 12-14).

[REDACTED] stated that no one at the union would frown upon reporting a coworker if there was an FFD issue. [REDACTED] also stated that despite having his access denied, he would not hesitate in the future to report someone for an FFD concern (Exhibit 17, pp. 16-17).

[REDACTED] explained that NMC’s reason for denying him access was because he, “. . . acknowledged to an NMC investigator that while working at Kewaunee you smelled alcohol on a worker and did not report the observation to either Kewaunee supervision or security.” [REDACTED] stated that the reason he did not report anybody was stated in a letter to NMC, in which [REDACTED] provided the reasons why he believed the denial of his access was not warranted. [REDACTED] stated that he believed there had been a, “misunderstanding or misinterpretation,” of what was discussed during his NMC interview. [REDACTED] acknowledged that the reason he did not report anyone was because despite smelling alcohol, he did not know which individual smelled of alcohol. [REDACTED] stated that he is not aware of anybody who has stood up and actually admitted that they went to a supervisor and reported [REDACTED] (Exhibit 17, pp. 18-20, 23; Exhibit 18).

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Interview of [REDACTED]

[REDACTED] was interviewed by OI on August 5, 2002. [REDACTED] is a welder who was employed by DZNPS at KNPP from July 2, 2001, until August 3, 2001 (Exhibit 19, pp. 1, 4-6, 8).

[REDACTED] acknowledged that he had attended GET training when he arrived at KNPP in 2001. He acknowledged that the FFD policy was discussed during the training, and [REDACTED] passed the GET training exam. It was [REDACTED] understanding that if you observed someone or suspected someone of not being fit for duty, you would, "Turn them in," to security. He also acknowledged that you could report the matter to the supervisors or foreman. "Foreman, supervisor. But most of the time report it to security people. And the reason for it, it's supposed to be confidential" (Exhibit 19, pp. 9-11).

[REDACTED] stated that he did not learn until approximately November or December 2001, that there was an FFD issue with [REDACTED]. [REDACTED] stated that during a conversation with a private investigator about some welding issues, he was asked if he had ever smelled alcohol upon [REDACTED]. [REDACTED] stated that he explained to the investigator that, "He had bad breath, but I can't -- I couldn't tell you if there was alcohol on his breath or not." [REDACTED] stated that he explained to the supervisor that his sense of smell had been gone for years. [REDACTED] stated that he told the investigator, "And I said, 'The only way I can tell if anybody's either been on drugs or alcohol is by their eyes, bloodshot eyes, or circles around their eyes, or slurring of the words, of their words, and speech, or if they stagger. . . And none of that was seen.' [REDACTED] also stated that he explained to the investigator that he only interacted with [REDACTED] on a few occasions, for a few minutes in the morning as they entered the gate, during pre-outage training, and in the fab shop (Exhibit 19, pp. 12-13, 15-17, 30).

[REDACTED] stated that he received a letter dated February 12, 2002, from NMC telling him that he was ineligible for NMC access authorization. According to the letter, "On December 10, 2001, you acknowledged to an NMC investigator that while working at Kewaunee you smelled alcohol on a coworker and did not report the observation to either Kewaunee supervision or security. When asked why you did not report the smell of alcohol, you stated you 'feared union reprisal.'" [REDACTED] stated that this statement was incorrect. [REDACTED] denied that he ever smelled alcohol upon [REDACTED] and provided documentation in the form of medical records that [REDACTED] has in impaired ability to smell. [REDACTED] stated that he has had that problem since he was a child (Exhibit 19, pp. 17-19; Exhibit 20, Exhibit 21).

[REDACTED] stated that he did tell the investigator that he feared union reprisal, but [REDACTED] felt his response was taken out of context. [REDACTED] explained that he was asked if he had smelled alcohol and had told the investigator, "No. I can't smell. And he said, 'If you had smelled alcohol, would you have turned him in?' And I told him that, 'I probably would have but there

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would have been union reprisal.' And I said, right after that, 'But that wouldn't bother me because I had turned a man in I think it was '[19]83.'" [REDACTED] acknowledged that even though he believed there would be some union reprisal, it would not have prevented him from reporting [REDACTED] had he smelled alcohol upon him. [REDACTED] stated that he was not aware of any code of silence about reporting a coworker for FFD concerns, nor had anyone at KNPP ever discouraged him from reporting anyone (Exhibit 19, pp. 19-22).

Interview of [REDACTED]

[REDACTED] was interviewed by OI on September 12, 2002. [REDACTED] was the night shift supervisor for DZNPS at KNPP during the outage in 2001, from approximately the middle of August until he was laid off on December 4, 2001 (Exhibit 22, pp. 1, 5-6).

Agent's Note: [REDACTED] contacted OI by telephone following his interview to clarify that his dates of hire by DZNPS at KNPP were July 16, 2001, through December 4, 2001.

[REDACTED] stated that he never observed an FFD concern with [REDACTED], but became aware of a concern in approximately August 2001. [REDACTED] came into the office, and he said, [REDACTED] and [REDACTED] . . . 'they aint' going to work for a fucking drunk like [REDACTED] . . . And I remember as plain as day 'cause I'm not saying that [REDACTED] a little angel, but they brought it to the right person because if they felt the foreman was under the influence, they're supposed to come to the next one in charge, and that was - - at that time was [REDACTED] and he was the GF (General Foreman)." [REDACTED] stated that they went over the foreman's head, because the foreman was [REDACTED] and he was the one who was suspected of being under the influence. According to [REDACTED] it was his understanding that the KNPP FFD policy required that any suspicion of a FFD concern be turned over to the immediate supervisor or security. [REDACTED] explained to OI that he had not heard the conversation between [REDACTED] and [REDACTED] but heard [REDACTED] make the comments in general when [REDACTED] came into their office. [REDACTED] recalled that [REDACTED] was also present in the room when the comment was made by [REDACTED] (Exhibit 22, pp. 10-13, 24-25).

Agent's Note: [REDACTED] identified [REDACTED] as [REDACTED]

[REDACTED] denied that [REDACTED] or [REDACTED] raised the FFD concern directly to him, nor did he recall [REDACTED] raising a similar concern. [REDACTED] recalled asking [REDACTED] what he was going to do about the matter, and believed [REDACTED] may have said, "You'd better go take care of this." [REDACTED] stated however, that he did not have specific recollection in this instance because that was [REDACTED]'s standard answer, "That was his general thing that he usually said to us as his superintendents, is 'You'd better go take care of it.'" (Exhibit 22, pp. 13-15).

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[REDACTED] acknowledged that as far as he knew, no one had requested that [REDACTED] be FFD tested. He also acknowledged that he never had any concern about [REDACTED] FFD. [REDACTED] acknowledged that the proper course of action would have been for [REDACTED] to have had [REDACTED] FFD tested and the matter would have been put to rest (Exhibit 22, pp. 17, 26-27).

[REDACTED] stated that the issue surfaced after he received a telephone call from a man named WALKER. [REDACTED] recalled that he was asked questions about welding issues and then asked him if [REDACTED] thought [REDACTED] was under the influence [of alcohol] when he came to work. "...and I said absolutely not" (Exhibit 22, pp. 19-20).

[REDACTED] stated that he was aware of a problem between [REDACTED] and [REDACTED], and surmised that [REDACTED] was upset that he had not been made a foreman by [REDACTED] at KNPP. [REDACTED] also felt that there was "...a big power struggle," between [REDACTED] and [REDACTED] (Exhibit 22, pp. 30, 35).

#### Interview of [REDACTED]

[REDACTED] was interviewed by OI on September 4, 2002. [REDACTED] was the former Project Superintendent for DZNPS at KNPP from approximately June 2001, to December 2001 (Exhibit 23, p. 4).

[REDACTED] recalled that the GET training he received at KNPP included NMC's FFD program. [REDACTED] stated that it was his understanding that if an employee had an FFD concern about another employee, they should contact the immediate supervisor (Exhibit 23, pp. 6-7).

[REDACTED] explained that he and [REDACTED] have been friends for a long time and socialize together outside of the workplace. [REDACTED] stated that he first learned about an FFD concern involving [REDACTED] after he had left KNPP. [REDACTED] stated that he receive a telephone call from an investigator who was investigating some issues at KNPP, which included welding issues and the FFD concern (Exhibit 23, pp. 12-14).

[REDACTED] stated, "The guy talked to [REDACTED] and he was saying that he was being interviewed. [REDACTED] had been interviewed. Other people at the plant had been interviewed about this situation and basically I was just kind of surprised that no one had ever really talked to me about it. [REDACTED] had mentioned it; [REDACTED] had mentioned it to me. So I knew that there was things going on out there, ..." [REDACTED] acknowledged that while employed at KNPP, another employee mentioned that [REDACTED] should inform [REDACTED] to be on his "best behavior" because security was tight after September 11, 2001. [REDACTED] stated that he had heard rumors for years about [REDACTED] FFD. [REDACTED] recalled that he told [REDACTED]

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[REDACTED] I don't have a concern with you. I'm just telling you what somebody had said to me, that they're giving you a heads up that because of all the problems, so-called problems in the past, that you've been tested before and now there's a hundred new security officers, I mean . . . So they were just basically giving, wanting me to let [REDACTED] know and I would have told anybody the same thing."

[REDACTED] stated that he could not recall who it was that mentioned the subject, and he did not raise the issue with [REDACTED]. [REDACTED] denied that anyone ever told him that they felt [REDACTED] was not fit for duty (Exhibit 23, pp. 14-18, 20-21).

[REDACTED] acknowledged that [REDACTED] and [REDACTED] did not approach him about any FFD concerns while they were employed at KNPP, nor did [REDACTED] ever tell him that FFD concerns had been raised about [REDACTED]. [REDACTED] also denied that [REDACTED] ever told him that some of the welders refused to work for [REDACTED] (Exhibit 23, pp. 20, 49-51).

[REDACTED] stated that the licensee's investigator contacted him by telephone and they had, "... probably a two minute conversation." [REDACTED] acknowledged that everybody was talking about the investigator who had contacted them. [REDACTED] believed the time frame was February and March 2002 (Exhibit 23, pp. 21-23).

[REDACTED] recalled that he went to [REDACTED] apartment to speak with him about going back to work for DZNPS. [REDACTED] told [REDACTED] that the investigator had told him that, "... two guys are claiming that they came to [REDACTED] and said that they would not work for [REDACTED] because they thought he was a drunk and had been drinking. According to [REDACTED] admitted to [REDACTED] that [REDACTED] and [REDACTED] had spoken to him. [REDACTED] stated he asked [REDACTED] what he had told the investigator. "And he said he remembered [REDACTED] and [REDACTED] coming to him and I said, 'Well, what did you tell Hal Walker?' And he said, 'I told him that they never came to me.'" (Exhibit 23, pp. 25-26, 34-35, 43).

[REDACTED] also stated that during his conversation with [REDACTED] [REDACTED] told him that the investigator also claimed that [REDACTED] had told the two workers who had raised the issue that they should not worry about it because [REDACTED] was going to ISI in two weeks. "And that's when [REDACTED] said he remembered [REDACTED] and [REDACTED] coming to him. That was the second half of it; the first half was that he wouldn't work for him because he was drinking and [REDACTED] said that, 'Don't worry about it; he's going to ISI for two weeks, in two weeks'" (Exhibit 23, pp. 53-54).

[REDACTED] stated that the next day, he visited [REDACTED] and told him what [REDACTED] had said. "And [REDACTED] stated to me that he had talked to [REDACTED] a week ago and he already knew that. [REDACTED] had told him exactly the same thing." [REDACTED] stated that he then received a

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telephone call from [REDACTED] stated that [REDACTED] told him that NMC had denied him [REDACTED] access because he had told [REDACTED] he would not work for [REDACTED]. [REDACTED] stated that he told [REDACTED] what [REDACTED] had told him and [REDACTED]'s attorney contacted [REDACTED]. [REDACTED] stated that [REDACTED] attorney sent him an affidavit to sign, but [REDACTED] refused because he could not recall if the affidavit accurately reflected what [REDACTED] had said during the telephone conversation with the attorney. [REDACTED] stated that he told [REDACTED] what he had said to [REDACTED] attorney, and that he had told the truth about what [REDACTED] had told him (Exhibit 23, pp. 26-29, 35-36, 48).

[REDACTED] stated that,

"... [REDACTED] and [REDACTED] say they went to [REDACTED] and maybe I'm getting way off base here, but [REDACTED] and [REDACTED] say they went to [REDACTED] and [REDACTED] said they never came to him.

I could see, if you're on the outside looking in, I would say, well, these guys got laid off, they're mad at [REDACTED]. Okay, it's their word against his. But then, you have [REDACTED] who doesn't want to get in trouble. [REDACTED] tells the truth. [REDACTED] got nothing to hide. I mean they interviewed [REDACTED] about his drinking and everything and all. [REDACTED] has no problem... But you have [REDACTED] who, if [REDACTED] says [REDACTED] told him exactly what I said about that [REDACTED] remembers [REDACTED] and [REDACTED] coming to him, if [REDACTED] protected [REDACTED] and saved [REDACTED] job by not turning [REDACTED] in, why would [REDACTED] stick up for [REDACTED] and [REDACTED]" (Exhibit 23, pp. 43-44)

[REDACTED] related that approximately one month ago, he had a conversation with [REDACTED] in which [REDACTED] had expressed surprise that no one had contacted [REDACTED] during this investigation. [REDACTED] stated that according to [REDACTED], he [REDACTED] had been in the office talking to [REDACTED] the day that [REDACTED] and [REDACTED] reported their concern about [REDACTED]. [REDACTED] told [REDACTED] "And he said, 'You were on the phone and you were arguing with somebody.' And he said, 'You turned around and said, 'take care of it.' And he said, 'Then you turned around and went back to talking.' [REDACTED] admitted that he really did not remember the incident (Exhibit 23, pp. 51-53).

Interview of [REDACTED]

[REDACTED] was interviewed by OI on June 5, 2002. [REDACTED] was the former ISI General Foreman for DZNPS at KNPP from approximately June 17, 2001, through December 1, 2001 (Exhibit 24, pp. 2, 4).

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██████████ acknowledged that he attended GET training upon his arrival at KNPP and recalled that the subject of FFD was discussed. ██████████ recounted his understanding of the policy at KNPP. "First of all, if you're a worker, you go to your - - say your foreman which would be your immediate supervisor, and then he would go to his supervisor, I believe. And they would make a determination that, you know, we have to go get a test or something like that. . . Now in the case of if it's a supervisor, then they would go to the person above him."

██████████ acknowledged that he took the standard GET test, which included questions concerning FFD, and passed the exam (Exhibit 24, pp. 8-11, 13-14, 31-32).

██████████ denied that he ever worked at KNPP in 2001 while unfit for duty. He also stated that no employee ever told him that they felt he was unfit for duty nor did anyone tell him, or suggest that, he needed to be FFD tested. ██████████ however, acknowledged that during a telephone conversation with ██████████ during the second or third week of December 2001, ██████████ told him, "He said that a couple guys came up to him and said that I had alcohol on my breath or that I was drunk, and that's all I know." ██████████ stated that nothing was ever done about the concerns and ██████████ acknowledged that ██████████ never asked him if he had been drinking. ██████████ stated, "██████████ told me what he told the people. He said, 'Don't worry about it. He's only going to be here for a couple weeks and he's going to ISI.'" ██████████ acknowledged that while he was employed at KNPP, ██████████ never informed him that anyone had told ██████████ that ██████████ was unfit for duty. ██████████ further acknowledged that he never voluntarily self-reported for an FFD test, nor did he ever fail to come to work because he was not fit for duty (Exhibit 24, pp. 17-20).

██████████ admitted that he did not get along well with either ██████████ or ██████████ while working at KNPP. ██████████ stated that he thought that ██████████ felt that he, rather than ██████████ should have been a foreman. ██████████ stated that he and ██████████ "We just didn't hit it off." ██████████ explained that he was their foreman from June 17, 2001, until August 1, 2001, at which time he went to work for ISI. ██████████ stated that ██████████ is the person who identified ██████████ and ██████████ as having raised the FFD concern about ██████████ (Exhibit 24, pp. 21-25).

██████████ denied that he had any medical condition which would cause him to exhibit any symptoms that would give the appearance that he was unfit for duty. He also denied that he has ever exhibited symptoms of staggering or slurred speech while at work. He admitted that he drinks alcohol and characterized his usage as moderate, "Probably like two or three drinks with dinner or something like that, and there again, it depends if you go to a wedding or a party or something like that" (Exhibit 24, pp. 26-29).

██████████ admitted that a security guard once told him that he smelled of alcohol, but ██████████ acknowledged that the comment was made in passing and he was never requested

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to be tested. [REDACTED] denied that in that situation he was required to self-identify and submit to testing. [REDACTED] acknowledged that no one at DZNPS ever requested that he be FFD tested, nor has he been questioned or confronted by anyone at DZNPS about his FFD. [REDACTED] denied that he has ever been in possession of alcohol on site, nor has he ever attempted to cover up the smell of alcohol on his breath by using mints or mouthwash (Exhibit 24, pp. 29-30, 36-37).

According to the licensee investigator's report of interview with [REDACTED] [REDACTED] claimed that in August 2001 [REDACTED] approached him and advised [REDACTED] that he smelled of alcohol. [REDACTED] added that he had no idea why [REDACTED] did not follow procedures to have him FFD tested (Exhibit 29, p. 3).

#### Interviews of [REDACTED]

[REDACTED] was interviewed by OI on June 6, 2002. [REDACTED] was the Mechanical and Civil Superintendent for DZNPS at KNPP from approximately the end of April 2001, until the end of December 2001 (Exhibit 25, pp. 3-4)

[REDACTED] stated that FFD was discussed during his GET training by NMC. [REDACTED] explained the expectation related to action that should be taken when an individual detects the odor of alcohol on the breath of another plant worker. "You're supposed to go to your supervisor, and I remember that to a certain extent, it's something's mentioned about aberrant behavior. . ." (Exhibit 25, pp. 8-9).

[REDACTED] acknowledged that he knows [REDACTED] and would characterize their relationship as friends. He acknowledged that he has socialized with [REDACTED] outside of work a few times (Exhibit 25, pp. 10-11).

[REDACTED] denied that he was aware of any occasion when [REDACTED] was asked to be FFD tested and refused. He further explained that if that had occurred, he would be obligated to escort the employee off-site or take the employee to security. [REDACTED] denied that he ever asked [REDACTED] to be FFD tested. [REDACTED] also denied that [REDACTED] had ever called in and said he was unfit for duty (Exhibit 25, pp. 12-14).

[REDACTED] stated that someone may have claimed that [REDACTED] was not fit for duty because there were hard feelings because of an early layoff by DZNPS at KNPP. [REDACTED] surmised that there was some animosity towards [REDACTED] because he was made foreman at the request of NMC. [REDACTED] stated that [REDACTED] reported to him for approximately three weeks and then reported to ISI. [REDACTED] stated that he had problems with [REDACTED] and [REDACTED] acknowledged that [REDACTED] felt that he should have been a supervisor or

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foreman. [REDACTED] also stated that he had problems with [REDACTED], who was a union [REDACTED] from another Local. [REDACTED] agreed that both [REDACTED] and [REDACTED] were, "...mad enough that they could be deceitful" (Exhibit 25, pp. 15-22):

[REDACTED] denied that anyone raised FFD concerns to him about [REDACTED] [REDACTED] however, admitted that during a conversation in December 2001, he had told [REDACTED] [REDACTED] that an issue had been raised about his FFD. [REDACTED] denied that he identified any individuals to [REDACTED] "I didn't - - I didn't know because nothing has been told to me about the names" (Exhibit 25, pp. 23-24).

[REDACTED] stated that in February 2002, when he went to work at Point Beach, he discovered that his badge had been put on administrative hold for approximately ten days while this FFD matter was investigated by the licensee. He stated that his own FFD was also questioned, although no one had questioned him while he was still employed at KNPP. [REDACTED] acknowledged while he was employed at KNPP, no one requested he be FFD tested, nor did anyone from DZNPS management ever question him about any FFD concerns (Exhibit 25, pp. 24-26).

[REDACTED] acknowledged that he never smelled alcohol on [REDACTED], nor did he ever see any indications that [REDACTED] was not fit for duty. [REDACTED] denied that he ever observed [REDACTED] slur his speech or unsteady on his feet. [REDACTED] acknowledged that [REDACTED] checked in with him almost every morning of the outage for a few minutes (Exhibit 25, pp. 27-28).

[REDACTED] stated that he was not aware of any employees being hesitant to report a coworker who was not fit for duty. He acknowledged that DZNPS has never discouraged any employees from reporting any FFD concern, nor was he aware of any employee being retaliated against for reporting a coworker. He added that his union, Local 400, Green Bay, had their own FFD program in place and he was not aware that they have ever discouraged reporting a coworker (Exhibit 25, pp. 28-29).

[REDACTED] stated that he determined whether [REDACTED] and [REDACTED] were going to be hired and laid off at KNPP, although he later admitted that he knew neither [REDACTED] nor [REDACTED] prior to being hired. [REDACTED] explained that the union provided a list of names and he picked people from the list. He also stated that [REDACTED] was hired at the request of the licensee, and [REDACTED] had been running the ISI program at KNPP for the past 22 years (Exhibit 25, pp. 38-42).

At the conclusion of [REDACTED] OI interview, and while off the record, [REDACTED] provided additional information. [REDACTED] recalled a conversation during the summer 2001, with

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[REDACTED] stated that [REDACTED] was upset that he had not been selected as the foreman for the crew at KNPP. [REDACTED] stated that because of a shortage of money for the DZNPS contract, layoffs came several weeks earlier than planned. [REDACTED] stated that things "got ugly" for a few weeks after early layoffs were announced. According to [REDACTED] [REDACTED] told him that since he had not been selected as foreman, "people would go down," and he [REDACTED] could make trouble for them. [REDACTED] stated that he felt these accusations might be the result of [REDACTED] trying to get even with him (Exhibit 25, pp. 19-22; Exhibit 26).

Agent's Note: Due to the additional allegation referred to OI at an August 5, 2002, ARB, that [REDACTED] had provided false information to the licensee's investigator and to OI concerning the FFD concern, [REDACTED] was interviewed a second time, on September 12, 2002.

During the OI interview, [REDACTED] was apprized that a number of witnesses had contradicted his assertion that no one reported an FFD concern at to him at KNPP concerning [REDACTED]. Additionally, [REDACTED] was cautioned about making false statements to OI during the interview (Exhibit 27, pp. 4-5).

[REDACTED] again denied that he ever requested [REDACTED] to be FFD tested, and acknowledged that his previous statements concerning this matter were true and correct. [REDACTED] also confirmed that no one "officially" came to him and reported an FFD concern about [REDACTED]. [REDACTED] stated that the statements he made during his previous OI interview were true. [REDACTED] specifically denied that [REDACTED] or [REDACTED] told him they would not work for [REDACTED] because they thought he was a drunk or smelled of alcohol. [REDACTED] also denied that [REDACTED] raised any concern to him about working for [REDACTED] (Exhibit 27, pp. 5-8).

[REDACTED] stated that he spoke with DZNPS management, "after the fact," about the issues [REDACTED] had raised including, ". . . service water, piping beam, control of air conditioning supports, fitness for duty." [REDACTED] was unable to explain how he could have raised [REDACTED] name in relation to the FFD concern, when [REDACTED] claimed that [REDACTED] had never raised the issue to him. [REDACTED] explained that there were unhappy people who had been laid off early and who may have been angry enough to make accusations about him. [REDACTED] was unable to explain why coworkers that he got along well with also contradicted his statements about the reporting of the FFD concern involving [REDACTED] (Exhibit 27, pp. 8-11).

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Interview of CLEVELAND

CLEVELAND, NMC Access Manager, was interviewed by OI on September 17, 2002. CLEVELAND was interviewed concerning the denial of access to four welders, [REDACTED] and [REDACTED] based upon NMC's investigation into the FFD concern. CLEVELAND stated that based upon the results of an Employee Concerns Program (ECP) investigation conducted by an NMC contractor, CLEVELAND made the determination to deny their access. "The basis for the initial four denials was failure to report the smell of alcohol in accordance with the fitness for duty program. . . That failure to comply with the fitness for duty program we deemed significant and warranted denial of access" (Exhibit 28, pp. 5-8, 14).

CLEVELAND stated that he was involved with only two of the interviews, [REDACTED] and [REDACTED] and he acknowledged that [REDACTED] provided conflicting information than what he had provided originally to the NMC investigator. CLEVELAND stated that during his June 12, 2002, interview with [REDACTED] claimed to have made a reference to a technician at KNPP while [REDACTED] was being escorted by [REDACTED] for a random drug test. According to [REDACTED] he told the technician that [REDACTED] was the one who should be tested. CLEVELAND stated that he was able to identify the technician and could not corroborate that the statement had been made by [REDACTED]. "Those technicians were interviewed regarding their knowledge of any such conversation. Were unable to recall it" (Exhibit 28, pp. 16-17).

CLEVELAND stated that previously, on March 27, 2002, [REDACTED] had been interviewed by PETERS at Point Beach concerning the same issue and [REDACTED] claimed to have made the comment to a coworker who had escorted him to the collection point, and not to the technician. CLEVELAND also pointed out that when PETERS questioned [REDACTED] about his statements to the NMC investigator on January 11, 2002, that [REDACTED] was "loaded every morning," [REDACTED] denied any knowledge about [REDACTED] being drunk. CLEVELAND stated, "Based on that information, conflicting information he was providing NMC investigators, his access was denied" (Exhibit 28, pp. 17-19).

CLEVELAND stated that he interviewed [REDACTED], who provided information that [REDACTED] had made admissions to [REDACTED] that [REDACTED] and [REDACTED] had come to him [REDACTED] with the claim that [REDACTED] smelled of alcohol. CLEVELAND stated that despite having a copy of the attorney's affidavit, [REDACTED] denied having heard [REDACTED] make that statement, which contradicted the information contained in the affidavit (Exhibit 28, p. 35).

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Allegation 1: Deliberate Failure by Contractors to Follow FFD Regulations

Agent's Analysis

On February 8, 2002, NMC notified RIII that upon conducting their own internal investigation, NMC identified four DZNPS welders, [REDACTED] and [REDACTED] who stated that, on occasion, they perceived the odor of alcohol on the breath of [REDACTED] DZNPS General Foreman. The licensee's investigative report, indicated that each of the aforementioned individuals received and successfully passed GET classroom instruction and standard testing, which included the expectations related to actions to be taken when an individual detects the odor of alcohol on the breath of a plant coworker.

The NMC investigative report concluded that [REDACTED] and [REDACTED] were aware of the smell of alcohol upon the breath of [REDACTED] yet for a variety of reasons did not report this FFD concern to anyone. OI however, did not reach the same conclusions.

With regards to [REDACTED] OI determined that he, along with [REDACTED] did in fact, report his concern about [REDACTED] FFD to [REDACTED] his immediate supervisor. While [REDACTED] denies that either [REDACTED] or [REDACTED] told him that they were uncomfortable working for [REDACTED] because of the odor of alcohol upon him, several witnesses interviewed by OI corroborated [REDACTED] testimony. [REDACTED] stated that he was present with [REDACTED] in the pre-fabrication shop when they had a conversation with [REDACTED]. [REDACTED] stated that he told [REDACTED] that he felt uncomfortable working for [REDACTED] because of the possibility of him being drunk. [REDACTED] testimony to OI corroborated the fact that he and [REDACTED] confronted [REDACTED]. [REDACTED] told OI that he later learned from [REDACTED] and [REDACTED] that they had also reported a similar concern about [REDACTED] FFD. [REDACTED] a supervisor who shared an office with [REDACTED], told OI that [REDACTED] came into the office one day and said that [REDACTED] (also referred to as [REDACTED]) and [REDACTED] had told him they would not work for a drunk like [REDACTED].

[REDACTED] also stated that towards the end of the day, he mentioned the FFD concern to [REDACTED] who was [REDACTED] supervisor. [REDACTED] however, did not corroborate that [REDACTED] had informed him of the FFD concern.

[REDACTED] denied that he told the licensee's investigator that he did not report the FFD concern involving the smell of alcohol to anyone. [REDACTED] told OI that he told the licensee's investigator that he reported the concern to [REDACTED]. [REDACTED] stated that upon reviewing the investigator's report of interview, he determined that the comments made, while accurate, were not made in the context of the FFD concern. [REDACTED] explained that the licensee's investigator asked him about three different items but attributed all of [REDACTED] comments to the FFD concern.

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With regards to [REDACTED] OI determined that he had received information from [REDACTED] and [REDACTED] regarding a potential FFD concern involving [REDACTED] and failed to follow the licensee's FFD guidelines. Testimony from [REDACTED] and [REDACTED] indicates that together, they spoke with [REDACTED] about their concerns with [REDACTED] FFD. In addition, [REDACTED] also provided testimony that he spoke with [REDACTED] without any prior knowledge that [REDACTED] and [REDACTED] had reported a similar concern. [REDACTED] another supervisor, told OI that he recalled [REDACTED] making a comment that neither [REDACTED] or [REDACTED] wanted to work for [REDACTED] because of their concerns about [REDACTED] FFD.

During the interview with the licensee's investigator, [REDACTED] admitted that [REDACTED] occasionally exhibited the smell of alcohol on his breath while inside the protected area at KNPP. [REDACTED] attributed this to a medical condition of [REDACTED] however, [REDACTED] denied that he had any such medical condition. [REDACTED] admitted that in the absence of other signs of impairment, he had dismissed the smell of residual alcohol upon [REDACTED] [REDACTED] told the licensee's investigator that he did not refer [REDACTED] for any FFD evaluation, because he was not aware that [REDACTED] was breaking any DZNPS rules.

[REDACTED] stated that several months after the fact, [REDACTED] admitted to him that [REDACTED] and [REDACTED] had spoken to him about [REDACTED] [REDACTED] also admitted to [REDACTED] during the same conversation that he told the licensee's investigator that [REDACTED] and [REDACTED] had not reported the concern about [REDACTED] to him.

Additionally, [REDACTED] told OI that several months after the fact [REDACTED] told him that a couple of workers had approached [REDACTED] about [REDACTED] having alcohol on his breath or being drunk. According to [REDACTED] [REDACTED] admitted he told the workers that they should not worry about it, that [REDACTED] was only going to be there for a couple of weeks and then [REDACTED] would be going to ISI. [REDACTED] stated that during his employment at KNPP during the 2001 outage, [REDACTED] never asked him about his FFD, nor did anyone request that he be FFD tested. He also stated that [REDACTED] never informed him that anyone else had questioned [REDACTED] FFD.

[REDACTED] unequivocally denied that anyone had approached him at KNPP about [REDACTED] FFD. Even after a second OI interview, during which [REDACTED] was confronted with conflicting testimony, he denied that he was aware of any question concerning [REDACTED] FFD. [REDACTED] explained the conflicting testimony as retaliation and jealousy by his subordinates.

According to the testimony of both [REDACTED] and [REDACTED] [REDACTED] claimed that the licensee's investigator had divulged to [REDACTED] that two unnamed workers had come forward

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with FFD concerns about [REDACTED]. A review of the handwritten notes and draft report of interview prepared by the licensee's investigator reveals that no such information was provided. This would indicate that only [REDACTED] knew that two individuals, [REDACTED] and [REDACTED], had approached him about [REDACTED]'s FFD. Additionally, only [REDACTED] had been interviewed by the licensee's investigator prior to the interview of [REDACTED] on December 11, 2001. A review of the report of interview of [REDACTED] indicates that [REDACTED] did not identify [REDACTED] or [REDACTED] by name or generally to the licensee's investigator and therefore, [REDACTED] could not have been questioned about two workers who had identified FFD concerns about [REDACTED].

With regards to [REDACTED] OI determined that [REDACTED] did not have any FFD concern nor did he report any FFD concern involving [REDACTED]. [REDACTED] provided medical records indicating that he has an impaired ability to smell and therefore, would not be in a position to determine whether [REDACTED] had alcohol upon his breath. [REDACTED] stated that during the few minutes that he interacted with [REDACTED] each day, he never observed any other signs that [REDACTED] was not fit for duty. Medical records provided by [REDACTED] to OI indicate an [REDACTED] since approximately June 1991, due to [REDACTED].

[REDACTED] stated that he did tell the licensee's investigator that he feared union reprisal, but [REDACTED] stated that this comment was taken out of context. [REDACTED] explained that he was asked generally would he have reported someone if he had smelled alcohol and [REDACTED] had answered, "I probably would have but there would have been union reprisal." [REDACTED] stated that he went on to explain that union reprisal would not have prevented him from reporting a coworker if there were FFD concerns.

With regards to [REDACTED] OI determined that [REDACTED] did not have any FFD concern nor did he report any FFD concern involving [REDACTED]. During his employment at KNPP, [REDACTED] was randomly selected for FFD testing. [REDACTED] surmised that he had been selected because someone had smelled of alcohol. [REDACTED] stated that he did not report anyone, because despite the smell of alcohol, he could not determine which individual smelled of alcohol. He also stated that in retrospect, he believed he had been in close proximity to [REDACTED] when he entered the plant that day. [REDACTED] stated that he had questioned [REDACTED] about being selected but nothing more was said about the matter.

[REDACTED] stated that he provided the licensee's investigator with the same information that he provided to OI. [REDACTED] told OI that he believed what he told the licensee's investigator was misunderstood or misinterpreted.

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## Conclusion

Based upon the evidence developed, the investigation did not substantiate that [REDACTED] or [REDACTED] deliberately failed to report FFD concerns. However, based upon the evidence developed, the investigation did substantiate that [REDACTED] deliberately failed to report FFD concerns involving a Foreman.

## Allegation 2: Deliberate Failure to Self-Report and Submit to FFD Testing

### Agent's Analysis

On February 8, 2002, NMC notified RIII that they had 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. At an ARB, OI was asked to determine whether [REDACTED] deliberately failed to self-report and submit to FFD testing at KNPP during the fall outage in 2001.

[REDACTED] told OI that he never worked at KNPP in 2001 while unfit for duty. He also stated that no employee ever told him that they felt he was unfit for duty nor did anyone tell him, or suggest that, he needed to be FFD tested. [REDACTED] stated that he learned in December 2001 that someone had approached [REDACTED] about his FFD. [REDACTED] stated that [REDACTED] never discussed the issue with him while he was employed at KNPP, nor did [REDACTED] ever ask him to be FFD tested, or whether he had been drinking. [REDACTED] further acknowledged that he never voluntarily self-reported for an FFD test, nor did he ever fail to come to work because he was not fit for duty.

[REDACTED] admitted to OI that a security guard once told him that he smelled of alcohol, but [REDACTED] acknowledged that the comment was made in passing and he was never requested to be tested. [REDACTED] denied that in that situation he was required to self-identify and submit to testing. [REDACTED] acknowledged that no one at DZNPS ever requested that he be FFD tested, nor has he been questioned or confronted by anyone at DZNPS about his FFD. [REDACTED] denied that he has ever been in possession of alcohol on site, nor has he ever attempted to cover up the smell of alcohol on his breath by using mints or mouthwash (Exhibit 24, pp. 29-30, 36-37).

According to the licensee investigator's report of interview with [REDACTED] [REDACTED] claimed that in August 2001, [REDACTED] approached him and advised [REDACTED] that he smelled of alcohol. [REDACTED] added that he had no idea why [REDACTED] did not follow procedures to have him FFD tested (Exhibit 29, p. 3).

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During his OI interview, [REDACTED] acknowledged that while employed at KNPP, another employee mentioned that [REDACTED] should speak to [REDACTED] to be on his "best behavior" because security was tight after September 11, 2001. [REDACTED] stated that he had heard rumors for years about [REDACTED] FFD. [REDACTED] stated that he could not recall who it was that mentioned the subject, and he did not raise the issue with [REDACTED]. He stated that he approached [REDACTED] to give him a "heads up" because [REDACTED] had similar problems in the past involving rumors of being unfit. [REDACTED] stated that [REDACTED] had submitted to FFD testing for many years, always with negative results. [REDACTED] denied that anyone ever told him that they felt [REDACTED] was not fit for duty.

There was no other testimony from any of the witnesses indicating that they had spoken directly with [REDACTED] and expressed an FFD concern to him, thereby requiring [REDACTED] to self-report and submit to FFD testing. Based upon the KNPP Access Authorization and FFD policy, it does not appear that [REDACTED] violated any FFD procedure.

### Conclusion

Based upon the evidence developed, the investigation did not substantiate that [REDACTED] deliberately failed to self-report and submit to FFD testing.

### Allegation 3: Contract Supervisor Deliberately Provided False Information

#### Agent's Analysis

On March 25, 2002, an ARB requested that OI determine whether [REDACTED] deliberately provided false information to the licensee's investigator, relative to being informed about the FFD concern involving [REDACTED].

OI determined that despite his denial, [REDACTED] had received information from [REDACTED] and [REDACTED] regarding a potential FFD concern involving [REDACTED] and [REDACTED] failed to follow the licensee's FFD guidelines in having [REDACTED] evaluated for testing. The Access Authorization & FFD training hand-out indicates that for-cause testing will be conducted, "after receiving credible information that an individual is abusing drugs or alcohol." While [REDACTED] might argue that the information provided was not credible, he never raised that defense, but rather denied that any employee had raised any FFD concern about [REDACTED]. Additionally, [REDACTED] admitted to the licensee's investigator that [REDACTED] occasionally exhibited the smell of alcohol on his breath while inside the protected area at KNPP. This coupled with reports from other coworkers, should have caused [REDACTED] to take further action to evaluate [REDACTED] FFD.

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stated that several months after the fact, [redacted] admitted to him that [redacted] and [redacted] had spoken to him about [redacted] [redacted] also admitted to [redacted] during the same conversation that he told the licensee's investigator that [redacted] and [redacted] had not reported the FFD concern about [redacted] to him.

Additionally, [redacted] told OI that several months after the fact, [redacted] told him that a couple of workers had approached [redacted] about [redacted] having alcohol on his breath or being drunk. According to [redacted] [redacted] admitted he told the workers that they should not worry about it, that [redacted] was only going to be there for a couple of weeks and then [redacted] would be going to ISI. [redacted] stated that during his employment at KNPP during the 2001 outage, [redacted] never asked him about his FFD, nor did anyone request that he be FFD tested. He also stated that [redacted] never informed him that anyone else had questioned his FFD.

[redacted] unequivocally denied that anyone had approached him at KNPP about [redacted] FFD. Even after a second OI interview, during which [redacted] was confronted with conflicting testimony, he denied that he was aware of any question concerning [redacted] FFD. [redacted] explained the conflicting testimony as retaliation and jealousy by his subordinates.

According to the testimony of both [redacted] and [redacted] [redacted] claimed that the licensee's investigator had divulged to [redacted] that two unnamed workers had come forward with FFD concerns about [redacted]. A review of the handwritten notes and draft report of interview prepared by the licensee's investigator reveals that no such information was provided. This would indicate that only [redacted] knew that two individuals, [redacted] and [redacted] had approached him about [redacted] FFD. Additionally, only [redacted] had been interviewed by the licensee's investigator prior to the interview of [redacted] on December 11, 2001. A review of the report of interview of [redacted] indicates that [redacted] did not identify [redacted] or [redacted] by name or generally, to the licensee's investigator and therefore [redacted] could not have been questioned about two workers who had identified FFD concerns about [redacted].

### Conclusion

Based upon the evidence developed, the investigation substantiated that [redacted] deliberately provided false information to both OI and the licensee's investigator relative to being informed about the FFD concern involving [redacted].

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SUPPLEMENTAL INFORMATION

On November 21, 2002, William P. SELLERS, Special Counsel for Regulatory Enforcement, Fraud Section, Criminal Division, U.S. Department of Justice, Washington, D.C., was apprized of the results of this investigation. SELLERS stated that, in his view, the case did not warrant prosecution and rendered an oral declination.

Information on Chilling Effect

There was no testimony provided which indicated that any of the witnesses were discouraged from reporting FFD concerns by the contractor, union or licensee, while they were employed at KNPP. In addition, [REDACTED] and [REDACTED] stated that despite the outcome of the licensee's investigation, they would still report an FFD concern. [REDACTED] and [REDACTED] stated that generally, they believed that the impact of the licensee's investigation upon the contract employees might make some employees less inclined to report an FFD concern, although this was based upon personal opinion and not fact. The references from the transcripts in which the chilling effect concerns were raised are as follows:

[REDACTED] (Exhibit 14, pp. 42-43); [REDACTED] (Exhibit 16, pp. 17-18); [REDACTED] (Exhibit 17, pp. 16-18); [REDACTED] (Exhibit 19, pp. 38-39); [REDACTED] (Exhibit 22, pp. 28-29); [REDACTED] (Exhibit 23, pp. 56-57); [REDACTED] (Exhibit 24, pp. 36-37); and [REDACTED] (Exhibit 25, pp. 28-30).

The following information was obtained during the investigation, but was not referenced in the Report of Investigation:

- Exhibit 32 Personnel Access Data System (PADS) Security Report for [REDACTED] dated September 17, 2002.
- Exhibit 33 PADS Security Report for [REDACTED] dated September 17, 2002.
- Exhibit 34 PADS Security Report for [REDACTED] dated September 17, 2002.
- Exhibit 35 PADS Security Report for [REDACTED] dated September 17, 2002.
- Exhibit 36 PADS Security Report for [REDACTED] dated September 17, 2002.
- Exhibit 37 PADS Security Report for [REDACTED] dated September 17, 2002.
- Exhibit 38 PADS Security Report for [REDACTED] dated September 17, 2002.

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Exhibit 39 PADS Security Report for [REDACTED] dated September 17, 2002.

Exhibit 40 PADS Security Report for [REDACTED] dated September 17, 2002.

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Investigation Status Record, OI Case No.: 3-2002-004, dated March 25, 2002.
2	Investigation Status Record, OI Case No.: 3-2002-020, with entry dated August 31, 2002.
3	Letter from NMC, dated April 22, 2002, transmitting WIC, Report of Investigation W-009-01, NMC/ECP No. 01-18, dated January 7, 2002, with Exhibits.
4	WIC Supplemental Report of Investigation W-009-01S, NMC/ECP No. 01-18, dated January 30, 2002.
5	WIC Report of Interview(s) with [REDACTED] December 6, 9, and 11, 2001.
6	WIC Report of Telephone Interview with [REDACTED] December 10, 2001.
7	WIC Report of Interview(s) with [REDACTED] December 5 and 11, 2001.
8	WIC Report of Telephone Interview with [REDACTED] December 9, 2001.
9	WIC Report of Telephone Interview of [REDACTED] January 15, 2002.
10	WIC Report of Telephone Interview of [REDACTED] December 17, 2001.
11	WIC Report of Telephone Interview of [REDACTED] December 11, 2001.
12	WIC Report of Interview of PETERS, December 7, 2001.
13	WIC Report of Telephone Interview(s) of [REDACTED] January 11-12, 2002.
14	Transcript of Interview of [REDACTED], August 29, 2002.
15	Transcript of Interview of [REDACTED], August 5, 2002.

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- 16 Transcript of Interview of [REDACTED] August 5, 2002.
- 17 Transcript of Interview of [REDACTED] August 5, 2002.
- 18 Letters from NMC to [REDACTED] dated February 13, 2002, and May 14, 2002.
- 19 Transcript of Interview of [REDACTED] August 5, 2002.
- 20 Letter from NMC to [REDACTED] February 12, 2002.
- 21 Letter from Hitchcock Cross to NMC, dated March 14, 2002.
- 22 Transcript of Interview of [REDACTED] September 12, 2002.
- 23 Transcript of Interview of [REDACTED] September 4, 2002.
- 24 Transcript of Interview of [REDACTED] June 5, 2002.
- 25 Transcript of Interview of [REDACTED] June 6, 2002.
- 26 Report of Interview of [REDACTED] June 6, 2002.
- 27 Transcript of Interview of [REDACTED] September 12, 2002.
- 28 Transcript of Interview of CLEVELAND, September 17, 2002.
- 29 WIC Report of Interview of [REDACTED] January 17, 2002.
- 30 KNPP Nuclear Administrative Directive NAD-01.04, Rev. C, dated November 16, 1999.
- 31 Portion of the KNPP GET Training relative to Access Authorization & FFD, undated.

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