



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

December 9, 2011

Mr. Richard F. Kayser, Ph.D., Chief Safety Officer
Office of Safety, Health and Environment
National Institute of Standards and Technology
100 Bureau Drive
Gaithersburg, Maryland 20799-1730

RI-2010-A-0095

Subject: NRC Office of Investigations Case No. 1-2011-010

Dear Mr. Kayser:

The Region I Field Office, NRC Office of Investigations (OI), initiated an investigation (Case No. 1-2011-010) on December 23, 2010, to determine whether a Researcher/Physicist was subjected to employment discrimination for engaging in protected activities at the National Institute of Standards and Technology (NIST) located in Gaithersburg, Maryland.

Specifically, the Researcher/Physicist asserted that he/she was subject to discrimination for raising safety concerns following the improper disposal of a small amount of plutonium. Specifically, the Researcher/Physicist claimed that he/she was reassigned to a job that he/she was not trained or qualified to do, was threatened to be fired, and lost an award and support for a promotion for cooperating with an NRC inspector regarding the contamination event.

Based upon evidence developed during the OI investigation, the NRC was unable to substantiate that discrimination had occurred. Specifically, based on documentary and testimonial evidence, the NRC determined that there was insufficient evidence to conclude that the Researcher/Physicist had been threatened to be fired for raising safety concerns. Additionally, the NRC determined that legitimate business decisions were the basis for the job reassignment, and for the individual not receiving an award or a promotion.

Please note that final NRC investigation documents, such as the OI Report described above, may be made available to the public under the Freedom of Information Act (FOIA) subject to redaction of information appropriate under the FOIA. Requests under the FOIA should be made in accordance with 10 CFR 9.23, Requests for Records, a copy of which is enclosed for your information. Also, in accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

No response to this letter is required. Should you have any questions regarding this letter, please contact Ms. Judith Joustra at (610) 337-5355.

Sincerely,

/RA/

Raymond K. Lorson, Director
Division of Nuclear Materials Safety

Enclosure: As Stated

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