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WILLIAM F. CONWAY  
EXECUTIVE VICE PRESIDENT  
NUCLEAR

212-01232/WFC/RJS  
August 20, 1993

Mr. B. H. Faulkenberry  
Regional Administrator, Region V  
U.S. Nuclear Regulatory Commission  
1450 Maria Lane, Suite 210  
Walnut Creek, CA 94596-5368

- References:
- 1) NRC letter dated July 7, 1993, from B. H. Faulkenberry, NRC, to William F. Conway, APS
  - 2) APS letter 102-02116-WFC/TRB/KR, dated February 25, 1992, from W. F. Conway, to Mr. John B. Martin, Regional Administrator, NRC Region V
  - 3) APS letter 102-02330-WFC/TRB/JJN, dated October 30, 1992, from W. F. Conway, to Mr. John B. Martin, Regional Administrator, NRC Region V

Dear Mr. Faulkenberry:

**Subject: Palo Verde Nuclear Generating Station (PVNGS)  
Units 1, 2, and 3  
Docket Nos. STN 50-528/529/530  
Reply to Request for Information  
File: 93-056-026**

On May 10, 1993, a Department of Labor (DOL) Administrative Law Judge (ALJ) issued a Recommended Decision and Order finding that Arizona Public Service Company (APS) discriminated against Mr. Thomas J. Saporito in violation of Section 210 of the Energy Reorganization Act by not selecting Mr. Saporito for re-hire as a contractor I&C technician because he had raised safety concerns during previous employment at Palo Verde and other nuclear reactor facilities. NRC's letter dated July 7, 1993 (Reference 1) stated that this DOL action "represents the third DOL/ALJ finding of discrimination by APS against its employees within the last four years," and that "the NRC is deeply concerned about the potential chilling effect that this history might have on Palo Verde employees." In addition, the July 7th letter requested a written description of the additional actions APS is taking to correct any potential chilling effect "these three highly visible decisions might have on APS employees." The purpose of this letter is to respond to that request and

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to provide a description of those actions that have been taken, as well as the additional actions that are underway and planned.

APS does not believe that any of the three DOL/ALJ decisions has had a chilling effect on the willingness of the Palo Verde work force to raise safety concerns. However, the disproportionate number of allegations of discrimination coming from Palo Verde causes APS to share NRC's deep concern about the potential chilling effect, and equally important, the current working environment at the site. APS has concluded that the primary cause for the disproportionate number of allegations of discrimination coming from Palo Verde is the inappropriate response of some supervisors and managers in certain areas when confronted with an employee concern.

APS' concern over a chilling effect at Palo Verde did not begin with the May 10, 1993, DOL/ALJ Recommended Decision. APS letter dated February 25, 1992 (Reference 2), described the steps taken by APS to assure that employees and contractors know that management encourages the identification and resolution of safety concerns and to convey clearly management's expectations and employees' responsibilities to address safety concerns in a direct, open and professional manner. This message has been reiterated to all employees periodically. For example, following the issuance of the ALJ's Recommended Decision concerning Ms. Mitchell (cited in NRC's letter of August 6, 1992), I personally held discussions with Palo Verde supervisors, managers, and directors in which I encouraged them to build an atmosphere in which employees and contract personnel feel free to raise concerns. Additionally, I discussed the absolute responsibility of management and supervision to assure that there is no retaliation against employees for raising concerns, and I emphasized the need for management sensitivity to employee concerns and the importance of being responsive to them. APS is now moving beyond encouragement of this behavior; it is being demanded as a condition of employment.

In addition, virtually all Palo Verde managers and supervisors have received a day-long training session in the area of employment discrimination, harassment and accommodation. Specifically, in November 1992, APS initiated new training called Civil Treatment for Managers, Fair Employment Rights and Responsibilities. This training includes an overview of significant employment related legislation. Managers and supervisors are given instruction on the appropriate ways to interact with and respond to employees within a range of protected categories such as race, gender, ethnic group, age, religious preference, pregnancy, AIDS, and protected activities. This training includes specific instruction on how to interact with and respond to employees who raise nuclear safety and quality concerns. The training relies in part on interactive role-playing to emphasize appropriate responses to real life situations.



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All front-line employees at Palo Verde are also required to attend a modified half-day version of the class. This training, called Civil Treatment for Employees, Fair Employment Rights and Responsibilities, deals with many of the same issues presented in the manager's version. However, this training currently does not include a specific module relating to the reporting of nuclear safety and quality concerns. A follow-up training module will be developed to address these issues in depth.

Additionally, APS has appointed a Palo Verde Special Counsel with oversight responsibility for investigations. The Palo Verde Special Counsel is independent from line management and has implemented measures to assure effective investigations of alleged wrongdoing. These measures include the Civil Treatment training described above, as well as a comprehensive employment investigator training program. Furthermore, the Palo Verde Special Counsel assisted in directing the efforts which led to the information provided in APS' 10 CFR 50.9 Notification dated August 10, 1993.

Another action taken by APS was in response to NRC's Special Inspection (Inspection Report No. 92-33, dated October 8, 1992), which assessed perceptions and attitudes of PVNGS workers with regard to raising safety concerns. This inspection found that 92% of the employees interviewed felt free to raise safety concerns. However, as indicated in APS' letter dated October 30, 1992 (Reference 3), APS was concerned that some "pockets" of employees continued to express reservations about raising safety concerns. To address this issue, APS retained Behavioral Consultant Services, Inc. (BCS) to perform an independent assessment. The purposes of the assessment were to conduct an independent evaluation of factors that impede or encourage employees to raise safety concerns within PVNGS and to recommend actions to foster a positive environment that encourages constructive input from employees and receptive management responses to safety issues at PVNGS.

The objectives of the assessment included identification and analysis of: 1) Areas within the PVNGS organization where employees are comfortable raising safety issues and concerns; 2) Pockets where employees are not comfortable raising safety issues and concerns; 3) Practices that encourage or discourage employees from raising safety concerns within PVNGS; 4) Trends in the frequency and content of safety or personnel-related concerns raised; 5) Gaps in the input and feedback processes designed to address safety concerns; and 6) Employee understanding of, and satisfaction with, existing programs related to identification of safety concerns.

The assessment was conducted between December 1992 and June 1993, and APS received a report from BCS on August 5, 1993. APS has been reviewing the report and



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discussing it with BCS. As a result, BCS has committed to submit the report, revised appropriately, on September 3, 1993. APS will provide the NRC further information regarding the report's findings and recommendations by mid-September 1993.

Several additional actions have been taken and are planned to assure there is no chilling effect which discourages employees from raising concerns at Palo Verde. First, management's expectations were most recently expressed in an August 10, 1993 memorandum from APS President and Chief Executive Officer, Mr. O. Mark DeMichele, to all Palo Verde employees. In addition, Mr. DeMichele joined me in reinforcing the message contained in his memorandum at three all-hands meetings for Palo Verde personnel, one held on August 16, and two held on August 17, 1993.

Second, as a follow-up to the previously described Civil Treatment training, additional training will be developed which will further encourage employees to report concerns and will give managers guidance in the proper response to those concerns. For management, a half-day module will be developed which focuses primarily on interaction between supervisors and employees regarding the raising of nuclear safety and quality concerns. Also, a half-day session will be developed for front-line employees, which will emphasize the special rights and responsibilities of nuclear workers, and will describe available resources and avenues for raising concerns.

Third, the organizations charged with reviewing concerns have undergone and are undergoing management changes. In June 1993, a new Director of Quality Assurance was appointed, who in addition to his Quality Assurance background, has extensive experience in the area of Employee Concerns. The new Director of Quality Assurance is in the process of selecting a new Employee Concerns Program Manager. Critical qualifications for this new manager are strong interpersonal skills and a reputation of high moral and ethical standards. In addition, a new Manager of Human Resources at Palo Verde has been selected, and that department has been realigned to be more responsive to organizational needs.

Fourth, APS has retained Duke Engineering and Services (DE&S) to conduct an evaluation of the effectiveness of the Employee Concerns Program, including program elements and implementation. The evaluation will also assess the role of the Employee Concerns Program relative to other APS organizational systems, processes, and procedures, including components charged with resolving concerns such as line management, Human Resources, etc. DE&S will make recommendations which will help



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the new managers identified above, as well as senior management, to assess the existing programs at Palo Verde and to determine further actions.

Fifth, managers and supervisors will be clearly put on notice that their ability to create a receptive work environment will be reflected in their performance evaluations. They will be evaluated, in part, on their success in the important mission of re-establishing trust between employees and management.

In conclusion, senior management has consistently conveyed to employees and contractors that harassment and intimidation of employees who raise concerns will not be tolerated. Steps to encourage appropriate behavior, while vigorous, have obviously not been fully effective. We have come to a fuller realization that establishing an atmosphere conducive to open communication is at the heart of the issue, and our effort will be enhanced and intensified in light of this insight.

We would like to meet with you concerning the status of our various initiatives in mid-September, and I will contact you concerning arrangements for such a meeting. Should you have any questions regarding this letter, please contact me.

Sincerely,

  
W. F. Conway

WFC/RJS/pvk

cc: J. A. Sloan  
NRC Document Control Desk

