

DEC. 20 1989

Docket No. 030-12779

License No. 37-17456-01 ²

University City Science Center
ATTN: Robert S. Krutsick
Executive Vice President
3624 Market Street
Philadelphia, Pennsylvania 19104

Gentlemen:

Subject: Possible Chilling Effect of Employee's Complaints

On October 12, 1989, the U.S. Department of Labor's Wage and Hour Division in Philadelphia, Pennsylvania received a complaint from an employee at the University City Science Center. The employee alleged that certain discriminatory acts were taken against him because he raised concerns with the NRC. In response to the complaint, the Wage and Hour Division conducted an investigation, and in the enclosed letter dated November 9, 1989, the District Director of the Wage and Hour Division found that the evidence obtained during the Division's investigation indicated that the employee was engaged in a protected activity within the ambit of the Energy Reorganization Act, and that discrimination as defined and prohibited by the statute was a fact in the actions which comprised his complaint.

Based on a review of the complaint filed with DOL, a violation of 29 CFR 19.20 may have occurred which could have a chilling effect on other licensee personnel. Although you have apparently appealed the District Director's finding to the Department of Labor, I request that you provide this office, within 10 days of the date of this letter, a response which:

1. provided the basis for the employment action regarding this employee and includes a copy of any investigation reports you have regarding the circumstances of each action; and
2. describes the actions, if any, taken or planned to assure that this employment action does not have a chilling effect in discouraging other licensee employees from raising perceived safety concerns.

After reviewing your response, the NRC will determine whether enforcement action is necessary at this time to ensure compliance with regulatory requirements.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter will be placed in the NRC Public Document room.

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University City Science Center

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The response requested by this letter is not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, Pub. L. No. 96-511.

Sincerely,

Original Signed By
WILLIAM T. RUSSELL
William T Russell
Regional Administrator

Enclosure:

Letter, Dated November 9, 1989, from DOL District Director to University City Science Center

cc:
Public Document Room (PDR)
Nuclear Safety Information Center (NSIC)
State of New Jersey

bcc:
Region I Docket Room (w/concurrences)
Management Assistant, DRMA (w/o enclosures)
D. Holody, RI
J. Lieberman, OE
J. Goldberg, OGC
R. Cunningham, NMSS
Allegation File

RET for
RI:DRSS
Miller/bj

12/14/89

RI:EO *apl*
Holody

12/20/89

MAS
RI:DRSS
Bettenhausen
12/19/89

12/18/89

RI:RC *out*
Smith *of*
skua
12/ /89

J.A.
RI:DRSS
Knapp

12/20/89

RI:DRA *out*
Martin *ok*
office
12/ /89

WTR
RI:RA
Russell

12/20/89

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12/12/89

U.S. Department of Labor

Employment Standards Administration
Wage and Hour Division
Room 238 - U.S. Custom House
2nd & Chestnut Sts., Phila., PA 19106
Reply to the attention of: WH-Phila.



November 9, 1989

Robert S. Krutsick
Executive Vice President
University City Science Center
3624 Market Street
Philadelphia, PA 19104

Dear Mr. Krutsick:

This letter is to notify you of the results of our compliance actions in the above case. As you know, Sang Joo Kim filed a complaint with the Secretary of Labor under the Energy Reorganization Act on October 12, 1989. A copy of the complaint, a copy of Regulations, 29 CFR Part 24, and a copy of the pertinent section of the statute were furnished to you in a previous letter from this office.

Our initial efforts to conciliate the matter did not result in a mutually agreeable settlement. A fact-finding investigation was then conducted. Based upon our investigation, the weight of evidence to date indicates that Sang Joo Kim was a protected employee engaging in a protected activity within the scope of the Energy Reorganization Act and that discrimination as defined and prohibited by the statute was a factor in the actions which comprise his complaint. The following information supported this determination:

Subsequent to Mr. Kim's having notified his immediate supervisor of his intent to alert the appropriate authorities of the alleged illegal use of radioactive materials, conditions which impeded his research were put into place and continued until his termination.

This letter is notification to you that the following actions are required to remedy the violation:

Mr. Kim should be returned to the payroll at his old salary and with the same benefits; he should be provided with the proper facilities and an environment suitable to enable him to complete the work necessary for his Ph.D., and he should be reimbursed for any attorney's fees which may have been incurred to date.

This letter is also notification to you that, if you wish to appeal the above findings and remedy, you have a right to a formal hearing on the record. To exercise this right you must, within five (5) calendar days

U.S. Department of Labor

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Wage and Hour Division
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