



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 4, 1993

Docket No. 50-423
License No. NPF-49
EA 92-212

Northeast Nuclear Energy Company
ATTN: W. Ellis
Chairman of the Board and
Chief Executive Officer
Post Office Box 270
Hartford, Connecticut 06141-0270

Dear Mr. Ellis:

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL
PENALTY - \$100,000 AND DEMAND FOR INFORMATION
(NRC INVESTIGATION REPORT 1-90-001)

This letter refers to the NRC investigation conducted from December 18, 1989, through August 31, 1992, into allegations of (1) harassment, intimidation, and discrimination (HI&D) against the Supervisor, Instrumentation and Control (I&C) Special Projects, employed by Northeast Utilities Service Company (NUSCo) of Northeast Utilities (NU), and (2) the destruction of an original safety evaluation and modification of a document in order to conceal safety concerns. A copy of the OI Investigation Report Synopsis is attached. As a result of that investigation, significant violations of NRC requirements were identified.

Violation I of the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) concerns subjecting Mr. Paul Blanch to HI&D for raising safety issues. Specifically, from late 1988 through March 1989, Mr. Blanch, Supervisor, I&C Special Projects, was involved in raising a potentially significant generic safety issue related to an undetectable failure mechanism for Rosemount level transmitters used in the reactor protection system. As a result of his continuing efforts to have this generic safety concern addressed, Mr. Blanch was subjected by his immediate management chain to a number of discrete acts of HI&D that, taken together, comprised a hostile work environment. Knowledgeable senior utility management did not take effective action to terminate this treatment of Mr. Blanch.

These acts started in April, 1989, when Mr. Johnson wrote a memorandum to Mr. Roby in which he stated that Mr. Blanch had acted in an unprofessional manner during a meeting with the NRC on March 30, 1989, that concerned the Rosemount issues. Mr. Roby had not attended the meeting but, based in part on this information from Mr. Johnson, he held a counseling session on

050111

9305070186 930504
PDR ADDCK 05000423
G PDR

IE14
41

April 3, 1989, during which he accused Mr. Blanch of unprofessional conduct during the March 30th meeting. Mr. Johnson subsequently sent a memorandum to file, dated April 12, 1989, noting that the NRC Senior Resident Inspector felt that all attendees at the March 30th meeting had acted in a professional manner and that he (Mr. Johnson) agreed. However, he never retracted this accusation nor did he notify Mr. Roby that he had apparently changed his position. Thus, the inappropriate admonition was never rectified. This failure to retract the accusation had a chilling effect on the raising of safety concerns by Mr. Blanch, as he testified to OI that he viewed the April 3rd meeting as an attempt to get him to back off the Rosemount issue. This failure to retract the accusation also had a potential chilling effect on other employees, since other employees were aware that Mr. Blanch had raised a safety issue and subsequently was criticized for unprofessional conduct at the NRC meeting.

On May 5, 1989, Mr. Mroczka, Senior Vice President, issued a memorandum to Mr. Werner with a copy to Mr. Johnson, stating that (1) Mr. Blanch would be responsible for developing NU's position on programmatic aspects of the Rosemount transmitter issue, and (2) any retaliation by those in Mr. Blanch's management chain for his raising of safety concerns would be inappropriate. Notwithstanding this memorandum, in June, 1989, Mr. Johnson attempted to keep Mr. Blanch from serving as the chairman for the Boiling Water Reactor Owners Group (BWROG) Committee reviewing the Rosemount transmitter issue. In a handwritten memorandum to Mr. Mroczka, Mr. Johnson recommended that Mr. Blanch not be allowed to serve as chairman, based in part on discussions with Rosemount, the entity whose product was being questioned. Mr. Mroczka subsequently overruled Mr. Johnson's recommendation. Nevertheless, Mr. Johnson's actions demonstrated his hostility towards Mr. Blanch's efforts to have the Rosemount safety issue addressed.

The Internal Audit Department (IAD) initiated an audit on September 14, 1989, into allegations of time and expense abuses in Mr. Blanch's group. This action was not consistent with the treatment of similar concerns regarding others which were raised during the audit. Specifically, during the audit of Mr. Blanch's group, IAD received allegations of similar time and expense problems in the I&C Engineering Department, which, like Mr. Blanch's section, also reported to Mr. Roby; however, IAD did not investigate those allegations. Additionally, although the draft IAD report did note that similar time and expense reporting abuses might have been occurring in other GEC groups, no audit was initiated.

In addition to the initiation of the audit, the manner in which the IAD audit was conducted also contributed to the creation of

the hostile work environment. Certain of the auditors raised concerns as to whether the audit was being used in a retaliatory manner against Mr. Blanch for raising safety concerns. The audit relied on data that Generation Engineering & Construction personnel knew were not reliable, IAD investigators did not appropriately review or follow up on the explanations for identified discrepancies offered by those audited in Mr. Blanch's group, and IAD applied a lower level of inquiry to other individuals selected as a comparison sample but who were not in Mr. Blanch's group.

Furthermore, the IAD auditors met with Messrs. Werner, Johnson and Roby to allow them to review and comment on the initial draft report, even though (1) they were not interviewed as part of the audit, (2) senior corporate management had intended for the audit to be independent of Mr. Blanch's management chain, and (3) Messrs. Werner, Johnson and Roby had been issued letters of reprimand (for their handling of Mr. Blanch) just eleven days before being provided a draft IAD report for comment. Messrs. Werner, Johnson and Roby improperly attempted to influence the audit findings by providing comments negative of Mr. Blanch's supervisory ability, although this was not the subject of the audit. Further, Mr. Werner drafted a letter of reprimand to Mr. Blanch dated November 3, 1989, which discussed the possibility of termination and referenced the draft audit report, even though the audit report had not yet been issued.

Mr. Mroczka, Senior Vice President, issued letters of reprimand to Messrs. Werner, Johnson, Roby and Mr. Thomas Shaffer, Manager, I&C Engineering, on October 16, 1989, for their respective part in handling the issues raised by Mr. Blanch. This action was taken by Mr. Mroczka based, in part, on the findings of LRS (Lapp, Rice and Staker, an independent consultant to NU, who had been specifically tasked with assessing the Rosemount transmitter issue, including possible incidents of harassment and intimidation). The LRS Report, dated August 28, 1989, concluded, in part, that: Mr. Blanch had exhibited superior technical insight, commendable initiative, and unusual courage in tenaciously pressing for recognition of the Rosemount transmitter issue as a significant nuclear safety concern; that Mr. Blanch was subjected to harassment and attempts at intimidation by his management, and such actions might have been continuing; and that the acts of harassment were sometimes apparently made with intent. However, the licensee subsequently withdrew those letters of reprimand based upon the decisions of non-nuclear corporate managers during a grievance appeal process. One of the managers in the third level of review, Mr. George D. Uhl, concluded that there was not an environment that was free from harassment and intimidation, and that he believed it more proper to address this issue in the managers' annual performance appraisals.

The NRC is especially concerned that in light of the LRS report and reprimand issue, senior utility management still did not take action to terminate the hostile work environment to which Mr. Blanch was subjected. In addition, various workers testified that they knew of the Blanch matter and, as a result, would not raise safety concerns with their management.

Mr. Ellis, Chief Executive Officer (CEO), raised a concern in a note to file, dated September 1, 1989, that some members of management might have a poor attitude about personnel who raise safety issues. Mr. Opeka, Executive Vice President, subsequently responded to Mr. Ellis' concerns in a memorandum dated December 20, 1989, which stated that the LRS Report supported that view and that letters of reprimand were issued to address the performance of the individuals (Messrs. Werner, Johnson, Roby and Shaffer).

A further indication of certain utility officials attitude toward resolving issues concerning harassment and intimidation was the initial response of some management personnel toward the OI investigation. Specifically, Mr. Shaffer, who was a supervisor, and Mr. Richters, who was corporate counsel, threatened several individuals with letters of reprimand if they did not talk with licensee attorneys prior to being interviewed by OI. It was only after an employee complained to LRS, who in turn brought it to the attention of Mr. Ellis, that the position was changed.

In light of the above, it appears that Mr. Blanch was placed in a work environment that was not conducive to the identification of potential safety issues by workers. It is recognized, as indicated in NRC Combined Inspection Nos. 50-245/90-81, 50-336/90-81, 50-423/90-82, and 50-213/90-82, that this environment may not exist throughout the licensee's organization. Nevertheless, the aforementioned activities indicate that not all of NU's supervisors and managers appreciate the importance of maintaining an environment that permits individuals to raise safety concerns without fear of retribution.

Violation I is particularly significant to the NRC because officers of the company were either directly participating in the discrimination (Mr. Werner, Vice President - Generation Engineering and Construction), or aware of it, but failed to act in an effective manner to correct the situation (Mr. Ellis, CEO; Mr. Fox, President; Mr. Opeka, Executive Vice President; and Mr. Mroccka, Senior Vice President). Therefore, in accordance with the guidance contained in Supplement VII of the Enforcement Policy, this violation has been categorized at Severity Level II because it involved the actions of management above first-line supervision.

To emphasize the importance of licensees providing a work environment that is free of harassment, intimidation and discrimination against those who raise safety issues, I have been authorized, after consultation with the Commission, to issue the enclosed Notice in the amount of \$100,000 for this violation. The base civil penalty for a Severity Level II violation is \$80,000. The civil penalty has been increased to \$100,000 because of the significant management involvement in the violation.

In addition, pursuant to sections 161c, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, 10 CFR 2.204 and 50.54(f), in order for the Commission to determine whether your license should be modified or other actions taken, you are required to submit to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, within 30 days of the date of this Demand for Information, in writing and under oath or affirmation, an explanation as to:

(1) why the NRC can have confidence that the licensee will ensure an environment that is free from harassment, intimidation and discrimination, both in general throughout its organization, and in particular with Messrs. Roby and Johnson involved with safety related activities at NU; especially in light of their actions related to Mr. Blanch in 1989, and

(2) why, after Messrs. Ellis, Fox, Opeka and Mroczka became aware of the harassment and intimidation concerns involving Mr. Blanch, NU was ineffective in promptly terminating the hostile work environment to which Mr. Blanch was subjected.

Copies of the response to this Demand for Information should be sent to the Assistant General Counsel for Hearings and Enforcement at the same address, and the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406-1415.

Violation II concerns the failure of Mr. Thomas Shaffer, Manager, Instrument and Controls Engineering, to implement the requirements of NEO Procedure 2.01, "Implementation of 10 CFR 21: Reporting of Defects and Noncompliance," after five of twelve Rosemount flow transmitters failed on the Unit 3 Reactor Protection System during the November 1986 to November 1987 fuel cycle. The original evaluation determined that a substantial safety hazard (SSH) existed. Mr. Shaffer did not agree with that evaluation and attempted to persuade the evaluator to change the SSH determination. After the evaluator refused, Mr. Shaffer subsequently persuaded the evaluator's supervisor to change the SSH determination to a non-SSH call. However, this action was not completed within the timeframe recommended in the procedure and Mr. Shaffer failed to notify the Manager - Generation

Facility Licensing, in order to obtain a required time extension. Finally, it is noteworthy that the original evaluation which indicated that a SSH existed, was misplaced and the licensee was not able to recover it until July 31, 1990. The Nuclear Review Board later determined the issue to be an SSH.

Of particular concern to the NRC on this matter is that a positive SSH determination is a significant safety concern that has possible generic implications which could involve the safety of other nuclear power plants. Mr. Shaffer failed to act on this issue within the timeframe outlined in the approved procedure. During that period of time, the only evidence of activity by Mr. Shaffer was his attempt to get a literal interpretation of the definitions used in the procedure. There is no indication that Mr. Shaffer pursued the safety matter from a technical standpoint. Though there is testimony that SSH issues are uncommon and dissension regarding determinations that an SSH exists rare, Mr. Shaffer failed to bring the differing view of the original evaluator to the attention of Mr. Miller, who was acting for the vice president of nuclear operations at the time. As a result, although the original SSH determination was made on December 8, 1987, it was not until March 25, 1988, that NU made the required 10 CFR Part 21 report, after the Unit 3 Nuclear Review Board independently reviewed the issue and changed the determination back to a SSH. The circumstances resulting in the delay in making the notification demonstrated a careless disregard on the part of Mr. Shaffer for the Commission's reporting requirements.

In accordance with the guidance provided in Supplement VII of the Enforcement Policy, this violation has been classified at a Severity Level III. A civil penalty is not being proposed for this violation because the licensee did eventually report the matter and a "director or responsible officer", as defined in 10 CFR Part 21, was not involved in the violation.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence.

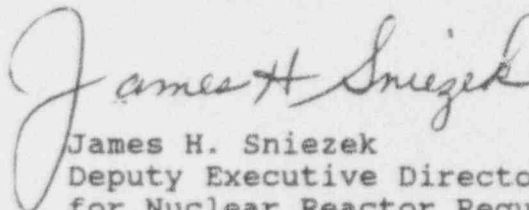
After reviewing your response to this Notice, including your proposed corrective actions and the results of future inspections, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be placed in the NRC Public Document Room.

Northeast Nuclear Energy Co. 7

The responses directed by this letter and the enclosed Notice are 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,



James H. Sniezek
Deputy Executive Director
for Nuclear Reactor Regulation,
Regional Operations & Research

Enclosure:
Notice of Violation and Proposed
Imposition of Civil Penalty
OI Synopsis
cc w/encl:
Board of Directors
R. Werner
E. Mroczka
G. Johnson
A. Roby
T. Shaffer
P. Blanch