



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

March 17, 1994

Docket No. 50-336  
License No. DPR-65  
EA 91-122

Mr. John F. Opeka  
Executive Vice President - Nuclear  
Northeast Nuclear Energy Company  
Post Office Box 270  
Hartford, Connecticut 06141-0270

Dear Mr. Opeka:

Subject: ALLEGED HARASSMENT, INTIMIDATION, AND DISCRIMINATION AT  
MILLSTONE, UNIT 2

This refers to two NRC investigations conducted by the NRC Office of Investigations (OI), concerning allegations of harassment, intimidation, and discrimination (HI&D) at Millstone, Unit 2. The first investigation involved specific complaints filed by three individuals with the Department of Labor (DOL) between April 1988 and August 1989. The majority were filed by two individuals, namely, an Instrument & Controls (I&C) technician and an electrician. The second investigation involved the termination of these two individuals by Northeast Nuclear Energy Company (NNECo) in November 1991, after which they filed another complaint with the DOL concerning the terminations.

The DOL Area Director found that these three individuals had been discriminated against with regard to some of the allegations that they had raised in their initial complaints, as well as with respect to the terminations of the I&C technician and the electrician. However, a DOL Administrative Law Judge (ALJ) dismissed all but one of the allegations in the first complaints filed by the I&C technician and electrician as being untimely filed without ruling on the merits of these allegations. In that one remaining allegation, which related to a NNECo manager allegedly referring to the I&C technician as a troublemaker, the ALJ found no discrimination. Further, in the case of the third individual who alleged that he had been transferred from the Metrology Laboratory and had received an unfair performance review in retaliation for raising safety concerns, while the DOL Area Director found discrimination, following an appeal by the licensee, the individual withdrew his complaint citing lack of funds to litigate the appeal, and the Area Director dismissed the complaint. As a result, the NRC decided to have OI investigate the complaints to determine whether the three individuals had been discriminated against.

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With respect to the earlier issues, OI concluded in its first investigation that discrimination occurred in that:

1. The I&C technician was discriminated against in that he initially was not paid overtime when he spoke to the NRC Senior Resident Inspector regarding a concern he had raised and the then Unit 2 Superintendent made an intimidating statement to him.
2. The other I&C technician was the victim of discrimination regarding a job transfer out of the Metrology Lab as well as by a poor performance appraisal by the I&C Supervisor and the assistant I&C Supervisor.
3. The electrician was discriminated against by the Unit 2 Superintendent when he was required to submit to a medical evaluation.

With respect to the allegations of HI&D by the two individuals described in items 1 and 3 above who were terminated in November 1991, OI performed an extensive investigation, including interviews of supervisors and co-workers, many of whom were not interviewed by DOL. OI concluded that the evidence developed during their investigation did not support the allegation that the employees were terminated for their whistleblowing activities, but rather for disruptive behavior observed by their supervisors and confirmed by co-workers.

A copy of the OI synopsis of each investigation is enclosed. The NRC staff, after review of the evidence in each of these cases, does not believe that there is sufficient evidence to conclude that a violation of 10 CFR 50.7 occurred; therefore, after consultation with the Commission, no further action is planned by the NRC with respect to this matter.

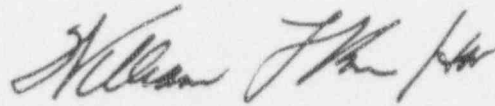
Finally, we would note that several 2.206 petitions alleging discrimination are pending before the NRC. We are in the process of evaluating these petitions and have not yet reached a decision on any of them. However, in light of these additional allegations of discrimination and given your recent major reorganization within the company, this is an opportunity to continue to emphasize to each nuclear organization manager and supervisor the importance of: (1) being sensitive to concerns raised by employees, regardless of whether those concerns are made directly to supervision, to other supervisors, to the Nuclear Safety Concerns Program, to the NRC, or through any other mechanism that the employee chooses; (2) encouraging your employees to bring concerns forward, and providing appropriate incentives for doing so; and (3) correcting or resolving concerns brought forth in a timely and professional manner. Your supervisors and managers need to appreciate that they are free to take timely, appropriate disciplinary action when warranted for legitimate reasons, but that they may not take adverse action because an employee engaged in protected activity.

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No response to this letter is required. In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be placed in the NRC Public Document Room.

Sincerely,



Thomas T. Martin  
Regional Administrator

Enclosure: Synopses of OI Reports

cc w/encl:

S. Scace, Vice President, Nuclear, Operations Services  
D. Miller, Senior Vice President, Millstone Station  
J. Stetz, Vice President, Haddam Neck Plant  
G. Bouchard, Nuclear Unit Director, Unit 2  
H. Haynes, Nuclear Unit Director, Unit 1  
F. Dacimo, Nuclear Unit Director, Unit 3  
R. Kacich, Director, Nuclear Planning, Licensing and Budgeting  
J. Solymossy, Director, Nuclear Quality and Assessment Services  
G. Garfield, Esquire  
N. Reynolds, Esquire  
K. Abraham, PAO (2)  
Public Document Room (PDR)  
Local Public Document Room (LPDR)  
Nuclear Safety Information Center (NSIC)  
NRC Resident Inspector  
State of Connecticut SLO

## SYNOPSIS

On August 25, 1989, the NRC Regional Administrator, Region I, requested that the Office of Investigations (OI) ascertain if two Instrument & Control (I&C) technicians and one electrician were the victims of harassment, intimidation, and discrimination (HI&D) at Millstone, Unit 2, Waterford, Connecticut. This request was made after the three men filed a total of eight complaints of HI&D with the U.S. Department of Labor (DOL), Hartford, Connecticut, between April 1988 and August 1989. The Region I Staff advised that all of the technical concerns raised by these individuals, up to August 25, 1989, were addressed and several were substantiated. OI and the Region I Staff agreed that OI would not duplicate the DOL investigations and that the DOL's conclusions would be evaluated. OI subsequently reviewed, and as appropriate, utilized pertinent DOL investigative data in its investigation effort. Additionally, it was agreed that OI's investigation would cover only those complaints made before the August 25 request date.

All of the first I&C technician's allegations of HI&D were addressed by the DOL. In August 1988, the Area Director of DOL found that this technician was discriminated against on three occasions. Those favorable findings were not sustained by a DOL Administrative Law Judge (ALJ) and a final decision is pending with the Secretary of Labor. The ALJ ruled on only one instance of harassment, saying the two other incidents were untimely. Testimonial evidence indicates that the root cause of this technician's ongoing conflict with the licensee stems from his unsuccessful grievance regarding overtime with one first line supervisor in the spring of 1988. OI concludes, as did the DOL Area Director, that the first I&C technician was the victim of discrimination by the Unit 2 Superintendent and by one former and one current I&C supervisor on one overtime issue and by the Unit 2 Superintendent regarding an intimidating statement.

The second I&C technician filed two complaints with the DOL. The first allegation of HI&D was substantiated by the DOL Area Director in May 1988. The complaint was withdrawn by this technician when the licensee appealed the DOL finding. His second allegation was found to be without merit by the DOL Area Director. OI concludes, as did DOL, that the second I&C technician was the victim of discrimination on his first complaint which involved a job transfer and performance appraisal rating by the former I&C supervisor and an assistant I&C supervisor.

All of the electrician's allegations of HI&D passed through the DOL process and were ultimately dismissed. Although the DOL Area Director concluded that the electrician's medical evaluation by a NNECO physician in June 1988 was a direct intimidating threat, it was dismissed by an ALJ as untimely. However, OI concludes that the electrician was discriminated against by the Unit 2 Superintendent when forced to submit to a medical evaluation.

SYNOPSIS

On February 20, 1992, the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), received a request for an investigation from the NRC's Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations and Research. OI was requested to investigate whether two employees from the licensee's Millstone Nuclear Power Station Unit 2 (MNP2) in Waterford, Connecticut, were terminated as the result of their engaging in protected activities.

This investigation revealed that a breakdown in employment relations between the alleged and the licensee began in 1988 and continued until their termination on November 8, 1991. The evidence developed during this investigation does not support the allegation that the employees were terminated for their whistleblowing activities, but rather for behavior observed by their supervisors and confirmed by co-workers, which formed the basis for the action.

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