



Northern States Power Company

414 Nicollet Mall
Minneapolis, Minnesota 55401-1927
Telephone (612) 330-5500

August 31, 1993

U S Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, DC 20555

PRAIRIE ISLAND NUCLEAR GENERATING PLANT
Docket Nos. 50-282 License Nos. DPR-42
50-306 DPR-60

U.S. Department of Labor Case No. 93-ERA-12
Employee Protection

Your letter of August 5, 1993 provided Northern States Power Company (NSP) with official notification of the Recommended Decision and Order in the above-captioned Department of Labor case. In that case, the Administrative Law Judge (ALJ) concluded that NSP's contractor, Burns International Security Service (Burns) wrongfully discharged an employee in retaliation for whistleblowing activities. (Burns is under contract by NSP to provide security services at the Prairie Island Nuclear Generating Plant.) In addition, your letter stated that, based on a review of the Recommended Decision and Order, an apparent violation of 10 CFR 50.7, "Employee Protection", is being considered for NSP. Although no response to your letter is required, we believe that due to the serious nature of this apparent violation, it is necessary to provide a prompt response.

To facilitate understanding of our response, the following background chronology is provided for the "legal aspects" and the "NSP/NRC related aspects" of this case:

CHRONOLOGY OF LEGAL ASPECTS

- 9/8/92 Date of Burns termination letter to the employee
- 9/8/92 Charges filed with National Labor Relations Board (NLRB) by terminated employee
- 10/30/92 Charges filed with the NLRB were dismissed based on insufficient evidence
- 11/5/92 Charges filed with the Department of Labor (DOL) by terminated employee

9309080115 180117 3/21/94
 PDR: per Marsha Camberoni
 Jim Creed DPO3

- 12/4/92 DOL's Wage and Hour Division determined "that Burns had demonstrated by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of any protected activity by the Complainant". The DOL decided to take no further action in the matter.
- 12/11/92 Terminated employee filed an appeal with the Office of Administrative Law Judges
- 6/24/93 ALJ issues Recommended Decision and Order in favor of terminated employee
- 8/5/93 NRC letter officially informs NSP of ALJ ruling and the apparent violation to 10 CFR 50.7, "Employee Protection"
- 8/12/93 Date of Burns' appeal brief to the Secretary of Labor in opposition to the ALJ's decision

CHRONOLOGY OF NSP/NRC RELATED ASPECTS

- 10/8/92 A letter, which expressed security concerns, was sent to the NRC by the terminated Burns employee.
- Oct-Nov 1992 While conducting a security inspection at Prairie Island (PI), an NRC Security inspector verbally informed the NSP Supt of Security that the NRC had received a letter that identified security concerns at PI. NSP was informed of a concern with regard to Security Force morale.
- Supt of Security informs NSP PI management of the morale concern.
- PI management requests Corporate Quality Assurance (QA) to inquire into the Security Force morale concern.
- 12/2/92 A copy of the 10/8/92 letter from the terminated Burns employee was voluntarily obtained by NSP as a result of the inquiry.
- 12/4/92 Date of QA report on the Security Force morale concern. Morale issues were identified and discussed. No significant regulatory issues were identified.
- 12/9/92 QA initiates an investigation into the security concerns raised in the 10/8/92 letter.

- 12/14/92 NRC initiates an investigation into the security concerns raised in the 10/8/92 letter.
- 1/5/93 QA's Interim Report on the Investigation of Security Concerns at Prairie Island is issued.
- 1/22/93 NRC letter to NSP transmitting the results of their investigation of the Security concerns.
- 2/3/93 NSP's PI Site General Manager and two NSP Security management personnel met at the NRC Region III offices to discuss PI security issues.
- 3/17/93 QA's Final Report on the Investigation of Security Concerns at Prairie Island is issued.

Your letter inquired of two items for which actions have been taken or are planned. The following is in response to this inquiry:

- 1) "Any actions you have taken or plan to take to minimize any potential chilling effect arising from circumstances related to the employee that might inhibit or prevent your employees or employees of your contractors from raising safety concerns."

Actions That Have Been Taken:

Prior to and independent of any aspect of the termination of the Burns employee, NSP had:

- a) Posted notices encouraging all personnel to resolve their concerns through normal supervisory channels (Enclosure 1). These notices provided Hotline numbers which could be used to confidentially request further investigation if concerns were not satisfactorily resolved through the normal channels.
- b) Included a discussion of NRC Form-3 in General Employee Training (GET). Employees are encouraged to report concerns to an NSP organization and then to the NRC if satisfaction is not obtained.
- c) Established a program at PI entitled "Employee Plant Improvement Program", that can be utilized to report any employee concerns to management. The employees are provided feedback on the concern resolution.

Site Supervisory and Management personnel recently completed training on NRC Form-3.

On August 13, 1993, the Vice President Nuclear Generation issued a letter to Nuclear Generation Employees and Contract Support Personnel to assure them to "feel free to report to NSP management or the NRC any concerns they may have about a safety issue without fearing any reprisal". The letter encourages employees to report any concerns. The letter also restated the Hotline numbers to remind employees of the alternative approach to resolution of concerns (Enclosure 2).

Actions That Are Planned:

To improve the "Employee Concerns" portion of GET such that employees are encouraged to identify and report safety concerns without fear of retribution.

To include terms in the vendor contracts which prevent retribution against employees for raising safety concerns.

To discuss, at scheduled safety meetings, raising and reporting of safety issues and to stress that there is no reprisal for this action and that such actions are encouraged and valued.

To formalize the methods and programs that are available to promote employee concern resolution. These methods and programs are to be periodically reviewed for effectiveness.

- 2) "The actions you have taken to assess the extent to which workers at the Prairie Island Plant may harbor reservations about raising safety concerns and the actions you have taken or plan to take to eliminate or minimize any such reservations."

Actions That Have Been Taken:

A specific objective of one of the QA investigations into the security concerns was to determine whether security officers felt threatened with termination for questioning operational policies and procedures. The 3/17/93 investigative report (discussed below) documented the conclusion that there was no evidence of intimidation.

A random survey of personnel at the PI site was conducted on August 27, 1993 to determine if workers have reservations about raising safety concerns. The results of this survey support the 3/17/93 report findings that there was no evidence of intimidation.

Actions That Are Planned:

The above described actions that are planned to minimize any potential chilling effect are also applicable with respect to minimizing any reservations for raising safety issues.

Your letter also made inquiry with regard to any NSP reports regarding the termination of the Burns employee. NSP did not specifically investigate the termination, however, the security concerns raised by the terminated employee were investigated. The results of these investigations are documented in internal reports dated 12/4/92, 1/5/93, and 3/17/93.

A summary of the conclusions reached as a result of the NSP investigation into the concerns identified in the 10/8/92 letter is as follows:

1. There were no violations of regulatory requirements that had not been self-identified by NSP and corrected.
2. There was no evidence that security officers are intimidated not to question operational policies and procedures.
3. The author of the letter in many cases had inaccurate or incomplete information and apparently did not understand the requirements.

In general, the first conclusion was supported by the results of the NRC investigation of the security concerns expressed in the 10/8/92 letter. The NRC report was transmitted to NSP on 1/22/93.

As a result of these investigations, NSP was satisfied that no substantive security concerns were raised by the terminated Burns employee and therefore did not become involved in the employee/employer relations between the terminated employee and Burns.

The following additional items are submitted for your consideration:

1. Identification

The point at which this apparent violation could have been identified is not clearly established. The first opportunity would have been 6/24/93, the date of the ALJ's Recommended Decision and Order. (NSP officially received a copy of the ALJ decision with the NRC's August 5, 1993 letter to NSP.) However, prior to 6/24/93,

two separate rulings (NLRB and DOL) had dismissed charges raised by the terminated employee. Additionally, the ALJ decision is currently under appeal by Burns.

2. Corrective Action

Prior to and independent of this case, NSP had taken positive action to create an environment where safety concerns could be raised without fear of reprisal. Upon receipt of your August 5, 1993 letter, additional strong corrective action was taken and future action is planned.

3. Licensee Performance

A long history of excellent performance exists for the Prairie Island plant. There are no previous violations of this nature.

4. Prior Opportunity to Identify

No prior opportunity existed

5. Multiple Occurrences

No prior occurrence

6. Duration

As discussed under "Identification", the basis and date for the apparent violation have not been clearly established as the case is still under appeal. As such the duration of the apparent violation cannot be defined.

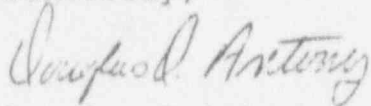
It is noted that when NSP obtained a voluntarily submitted copy of the terminated employee's 10/8/92 letter, prompt action was taken to investigate the expressed security concerns.

It is hoped that this information provides a balanced perspective

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for the circumstances surrounding this case. Please contact us if you have any questions or desire additional information.

Sincerely,



Douglas D Antony
Vice President
Nuclear Generation

c: Regional Administrator III, NRC
Senior Resident Inspector, NRC
NRR Project Manager, NRC
J E Silberg

Enclosures

ATTENTION ALL PERSONNEL

Northern States Power Company is committed to accomplishing all work with personnel safety, equipment reliability, regulatory compliance, and efficiency as the prime objectives. With your high standards of workmanship, we can reach these objectives. However, you can also help by promptly identifying concerns you have about jobs or tasks on which you are engaged or are familiar. You should attempt to resolve your concerns through your normal supervisory channels.

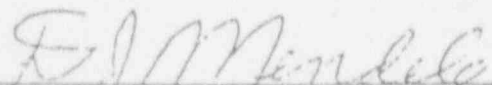
If your concerns are not satisfactorily resolved, please contact the site quality Hotline or the PSQA General Office Hotline. Your concerns will be investigated, and you will be notified of the resolution. If these issues are to receive timely attention and resolution, we need and appreciate your assistance. Also, if desired, confidentiality will be maintained.

MONTICELLO PLANT
Extension 1399


PRAIRIE ISLAND PLANT
Extension 4960

PSQA GENERAL OFFICE
1-800-233-6775

NSP



D J Mendele, Director PSQA



L R Eliason, VP Nuclear Generation

INTERNAL CORRESPONDENCE
NUCLEAR GENERATION**NSP**

DATE: August 13, 1993
TO: All Nuclear Generation Employees/Contract Support Personnel
FROM: Doug Antony
RE: Reporting Safety Concerns

I want to assure all employees and contractors that you should feel free to report to NSP management or the NRC any concerns you may have about a safety issue without fearing any reprisal. I definitely want you to bring any concerns to our attention so that we can continue to improve our performance. I encourage you to report any concerns to someone in NSP management so the issue can be investigated and handled promptly. If your concerns are not satisfactorily resolved by management, you may contact the site quality hotline or the PSQA General Office hotline. The hotline numbers, which are posted at the plants and the GO complex, are:

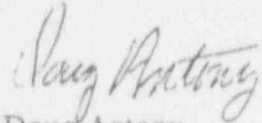
Monticello Plant (Extension 1399)
Prairie Island Plant (Extension 4960)
PSQA General Office (1-800-233-6775)

If you feel the need and desire to contact the NRC, there is a process given to do this on NRC Form 3 "Notice to Employees" which is posted in the areas where nuclear staff work. There is also a hotline set up to the office of the Inspector General which can be used. The telephone number for this hotline is on NRC Form 3.

The Nuclear Regulatory Commission has updated the NRC Form 3 which describes the actions to be taken if you have a concern about radiation safety or other aspects of licensed activities. There have been three major changes to NRC Form 3 that you should be aware of that expand the rights of someone lodging a complaint. The first key change extends to 180 days from 30 days the time that employees have to file a complaint with the Department of Labor if they believe they have been discriminated against for bringing safety concerns to the NRC or to NSP. Another change made is that a submission of an internal complaint to someone such as your supervisor, is now a protected activity. The final key change is the form now stipulates that NRC regulations have been changed so that an employee who engages in deliberate misconduct that caused a violation of an NRC regulatory requirement may be subject to NRC enforcement action.

Copies of the new NRC Form 3 (dated June 1993) have been posted at the nuclear plants and pertinent areas at the GO Complex. Take the time to look at this form and familiarize yourself with the reporting process. If you have trouble locating a copy of the form or have any questions, please contact your supervisor.

Sincerely,

A handwritten signature in cursive script that reads "Doug Antony".

Doug Antony
VP, Nuclear Generation

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