



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV

611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064

JUN 20 1994

Docket: 50-458
License: NPF-47

Entergy Operations, Inc.
ATTN: John R. McGaha, Vice President -
Operations, River Bend Station
P.O. Box 220
St. Francisville, Louisiana 70775

Gentlemen:

SUBJECT: SETTLEMENT AGREEMENT WITH I. M. MALIK

This office has received a copy of the agreement between I. M. Malik and Entergy Operations, Inc., as agent for Gulf States Utilities Company and Cajun Electric Power Cooperative, Inc., settling the complaint made to the U.S. Department of Labor by Mr. Malik. We have a concern that the agreement could be subject to a misinterpretation.

Paragraph 3 of the agreement states that "Mr. Malik further agrees to forever refrain from asserting...against Entergy Operations, GSU...any claims, demand or action of any kind arising out of matters referred to in the Complaint." Paragraph 7 of the agreement makes it clear that Mr. Malik is not restrained from reporting or providing "information related to any suspected instance of illegal conduct of any kind, any nuclear safety or quality concern, any workplace safety concern, or any public safety concern to the United States Nuclear Regulatory Commission or any other governmental entity with jurisdiction over such matters." However, the protected activities of 10 CFR 50.7(a) are not so limited to suspected instances of illegal conduct or safety or quality concerns. There are other protected activities recognized by the regulations and the courts in their interpretations of section 211 of the Energy Reorganization Act of 1974, as amended (ERA); e.g., requesting the Commission to institute action against one's employer for the administration or enforcement of requirements; testifying in any Commission proceeding, or before the Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of either the ERA or the Atomic Energy Act of 1954, as amended; or assisting or participating in any protected activity. Arguably, Mr. Malik could now believe that, insofar as such other protected activities are concerned, he is precluded from asserting any claims with the Commission or any other agency with jurisdiction over matters related to activities not cited in Paragraph 7 of the subject agreement.

Your attention is called to 10 CFR 50.7(f) which provides that no agreement affecting the compensation, terms, conditions, or privileges of employment, including an agreement to settle a complaint filed by an employee with the Department of Labor pursuant to section 211 of the ERA, may contain any provision which would prohibit, restrict, or otherwise discourage an employee

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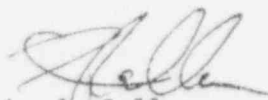
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provision which would prohibit, restrict, or otherwise discourage an employee from participating in protected activity as defined in paragraph (a)(1) of section 50.7 including, but not limited to, providing information to the NRC or to his or her employer on potential violations or other matters within NRC's regulatory responsibilities. We believe that the subject agreement could be interpreted as having such restrictions or, at least, discourage Mr. Malik from engaging in other protected activities.

Consequently, I ask that you, or another authorized Entergy representative, provide written assurance to me and to Mr. Malik that in no way does Entergy, Gulf States, or Cajun Electric, interpret the agreement settling the complaint as precluding Mr. Malik from reporting on, or providing information related to, not only suspected instances of illegal conduct or nuclear safety or quality concerns, but it also does not preclude him from reporting on, providing information related to, making assertions about, or testifying regarding any protected activity under 10 CFR 50.7(a) and section 211 of the ERA as those sections have been interpreted by agency administrative boards and the courts.

Sincerely,



L. J. Callan
Regional Administrator

cc:
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JUN 20 1994

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JUN 20 1994

E-mail report to D. Sullivan (DJS)

bcc distrib. by RIV:

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RIV:RC <i>WLB</i>	EO <i>[Signature]</i>	C:RB-CO <i>[Signature]</i>	D:DRP	DRA <i>[Signature]</i>	RA <i>[Signature]</i>
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