

CASE No. 4-94-060



**United States
Nuclear Regulatory Commission**

Report of Investigation

COOPER NUCLEAR STATION:

ALLEGED DISCRIMINATION FOR REPORTING A SAFETY

CONCERN TO MANAGEMENT

Office of Investigations

Reported by OI: **RIV**

9510130292 951006
PDR FOIA
PENDEL95-383 PDR

Att

Title: COOPER NUCLEAR STATION:

ALLEGED DISCRIMINATION FOR REPORTING A SAFETY
TO MANAGEMENT

Licensee:

Nebraska Public Power District
P.O. Box 499
Columbus, NE 68601

Docket No.: 50-298

Case No.: 4-94-060


Report Date: August 17, 1995

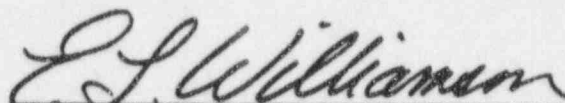
Control Office: OI:RIV

Status: CLOSED

Reported by:

Reviewed and Approved by:


Jonathan Armenta, Jr., Investigator
Office of Investigations
Field Office, Region IV


E. L. Williamson, Director
Office of Investigations
Field Office, Region IV

WARNING

The attached document/report has not been reviewed pursuant to
10 CFR Section 2.790(a) exemptions nor has any exempt material been
deleted. Do not disseminate or discuss its contents outside NRC.
Treat as "OFFICIAL USE ONLY."

SYNOPSIS

This investigation was initiated to determine if two former employees who worked for the Nebraska Public Power District (NPPD), at the Cooper Nuclear Station (CNS), were discriminated against and terminated from employment for reporting safety concerns to CNS management personnel. The two former NPPD employees were temporary employees working at the CNS facility in Quality Assurance (QA).

Based on the evidence developed during the investigation, the allegation was not substantiated.

THIS PAGE LEFT BLANK INTENTIONALLY

TABLE OF CONTENTS

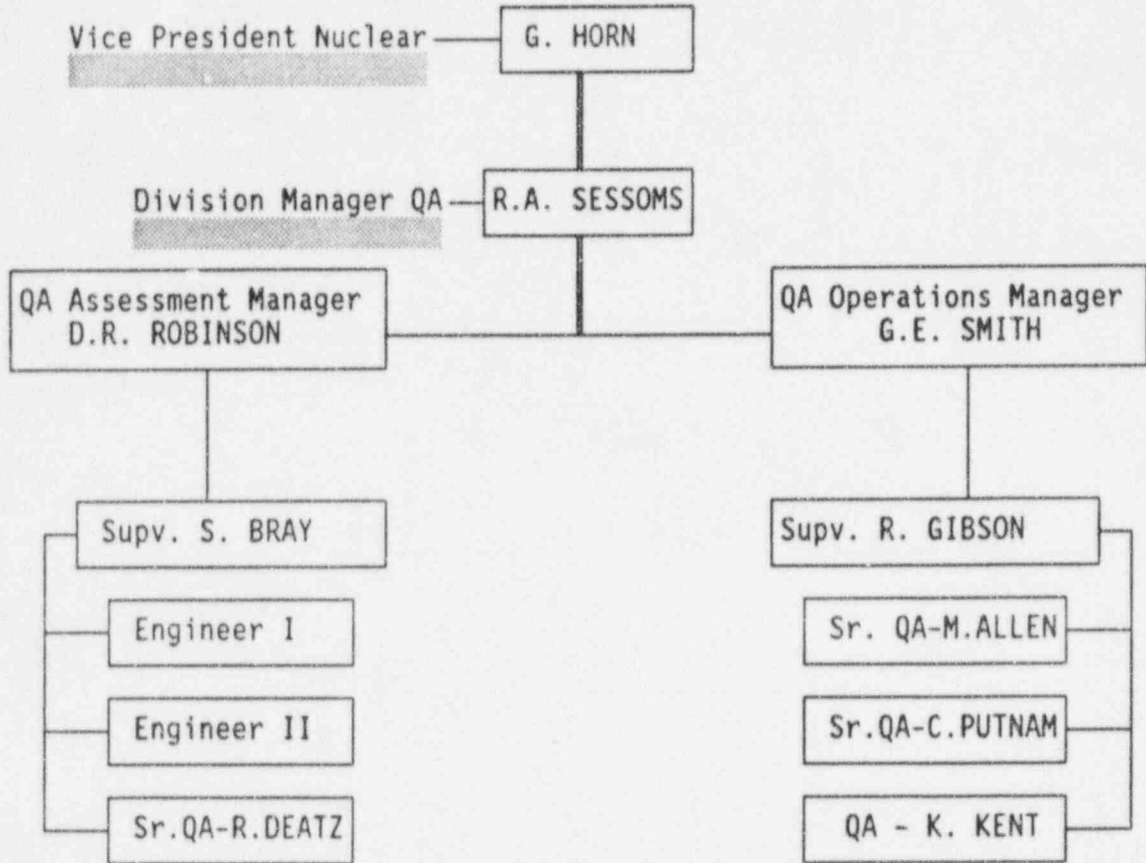
| | <u>Page</u> |
|--|-------------|
| SYNOPSIS..... | 1 |
| ORGANIZATION CHART..... | 5 |
| LIST OF INTERVIEWEES..... | 7 |
| DETAILS OF INVESTIGATION..... | 9 |
| Applicable Regulations..... | 9 |
| Purpose of Investigation..... | 9 |
| Background..... | 9 |
| Interview of Allegers..... | 10 |
| Coordination with the NRC Staff..... | 11 |
| Review of Documentation..... | 11 |
| Allegation (Alleged Discrimination for Reporting a Safety Concern to Management)..... | 12 |
| Summary..... | 12 |
| Evidence..... | 13 |
| Conclusions..... | 13 |
| LIST OF EXHIBITS..... | 15 |

THIS PAGE LEFT BLANK INTENTIONALLY

NEBRASKA PUBLIC POWER DISTRICT
COOPER NUCLEAR STATION

Nuclear Power Group Quality Assurance Division

ORGANIZATION CHART
October 1994



THIS PAGE LEFT BLANK INTENTIONALLY

LIST OF INTERVIEWEES

| | <u>Exhibits</u> |
|--|-----------------|
| ALLEN, Michael D., CNS Acting QA Program Supervisor..... | 11 |
| BRAY, Sterling L., CNS QA Assessment Supervisor..... | 12 |
| DEATZ, Ronnie C., CNS Senior QA Specialist..... | 16 |
| GIBSON, Richard L., CNS Senior QA Specialist..... | 14 |
| KENT, Kurtis S., CNS QA Specialist..... | 13 |
| PENDLETON, Nelson M., former CNS QA Specialist..... | 4 |
| PUTNAM, Charles H., CNS Acting QA Audit Supervisor..... | 15 |
| SMITH, Garrett E., CNS QA Operations Manager..... | 17 |
| STEPHENSON, Donald E., former CNS QA Specialist..... | 5 |
| WOLSTENHOLM, Verne L., CNS Senior Manager of Projects..... | 18 |

THIS PAGE LEFT BLANK INTENTIONALLY

DETAILS OF INVESTIGATION

Applicable Regulations

10 CFR 50.7: Employee Protection (1994 Edition)

Purpose of Investigation

This investigation was initiated (Exhibit 1) to determine if two former employees who worked for the Nebraska Public Power District (NPPD), at the Cooper Nuclear Station (CNS), were discriminated against and terminated from employment for reporting safety concerns to CNS management personnel.

Background

Nelson PENDLETON and Donald STEPHENSON were hired and accepted for a temporary position at CNS on or about October 31, 1994 (Exhibit 2), but did not start until November 9, 1994. The two individuals were hired with the expectation they would be employed until December 31, 1995, [13 months], as temporary NPPD employees in Quality Assurance (QA) as QA specialists. PENDLETON, a former contractor who had worked at CNS as a quality control specialist in 1984 and 1994, said he had been called on October 24, 1994, by Garrett SMITH, QA Operations Manager, and asked to help with the restart activities at CNS. PENDLETON said he was also asked if he knew of anyone else who was qualified, and he recommended STEPHENSON (Exhibit 3).

On or about December 21, 1994, PENDLETON and STEPHENSON were asked to report to the office of acting QA Operations Supervisor, Ronnie DEATZ, for a brief meeting [present also at this meeting were SMITH and R. A. SESSOMS, QA Division Manager]. During their [PENDLETON and STEPHENSON] meeting with DEATZ, they were informed they were being terminated from employment for failure to demonstrate adequate performance; failure to demonstrate the ability to detect or develop significant safety concerns; and inadequate work habits. They were further informed that inattentiveness and excessive counseling were additional reasons cited for their termination. According to PENDLETON and STEPHENSON, NPPD had not apprised them of any inadequate performance prior to this meeting nor had they seen any documentation regarding their performance. Both, PENDLETON and STEPHENSON, stated they were surprised to receive termination notices; however, they felt the real reason why they were being terminated was because they had identified and reported numerous safety concerns in the short time they had been at CNS.

On December 28, 1994, the Office of Investigations (OI), Region IV (RIV), initiated an investigation to determine if PENDLETON and STEPHENSON were discriminated against and terminated from employment for reporting safety concerns to CNS management.

Interview with Allegor [Nelson M. PENDLETON, former NPPD QA Inspector

On January 5, 1995, PENDLETON was interviewed by OI:RIV and Howard BUNDY, NRC Reactor Engineer, in Lynchburg, Virginia (Exhibit 4). PENDLETON said the purpose for contacting the NRC:RIV senior allegations coordinator's office was to voice his concerns regarding his allegation that he and STEPHENSON were discriminated against and terminated from employment for reporting safety concerns to management personnel at CNS.

INVESTIGATOR'S NOTE: PENDLETON provided the reporting investigator with numerous copies of quality related documents which he referred to during the interview.

PENDLETON said he was first to be informed that he was being terminated from employment on December 21, 1994, for "failure to demonstrate adequate performance (Exhibit 5); "however, he felt that CNS management formulated a reason to terminate him, when in fact, he said the real reason he was being terminated was because he identified and reported safety related concerns.

PENDLETON said his work assignments met or exceeded the expectations of his supervisor, but instead, he said management indicated the reasons for his termination was based upon these facts: (1) failure of work products to demonstrate the ability to detect or develop significant nuclear safety concerns or precursors; (2) excessive coaching and counseling required; and (3) inadequate work habits, including inattentiveness.

PENDLETON stated he had identified an issue regarding fire protection in a "switchgear room" which NPPD cited as insignificant. PENDLETON said he also identified another issue about the lack of signature or initial registry so QA could determine who had signed off on various procedures, quality control (QC) checks, and/or other processes. PENDLETON stated he was trying to convince CNS to have more effective compliance. He also said CNS did not train their personnel, but added that he did not think CNS was in violation of any training program regulation.

Interview with Allegor [Donald E. STEPHENSON, former NPPD QA Inspector

On January 5, 1995, STEPHENSON was interviewed by OI:RIV and Howard BUNDY, NRC Reactor Engineer, in Lynchburg, Virginia (Exhibit 6). STEPHENSON said the purpose for contacting the NRC:RIV senior allegations coordinator's office was to voice his concerns regarding his allegation that he and PENDLETON were discriminated against and terminated from employment for reporting safety concerns to management personnel at CNS.

INVESTIGATOR'S NOTE: STEPHENSON provided the reporting investigator with numerous copies of quality related documents which he referred to during the interview.

STEPHENSON said he was getting PENDLETON's personal belongings from PENDLETON's desk, when he [STEPHENSON] was called in to DEATZ' office and was informed that he was also being terminated from employment. STEPHENSON said he was told he was being terminated supposedly for the same reasons as PENDLETON, for "failure to demonstrate adequate performance (Exhibit 7)."

STEPHENSON said his work assignments also met or exceeded the expectations of his supervisor. STEPHENSON indicated CNS management outlined the same identical basis for his termination that PENDLETON was given. He said CNS management provided the following reasons for his termination: (1) failure of work products to demonstrate the ability to detect or develop significant nuclear safety concerns or precursors; (2) excessive coaching and counseling required; and (3) inadequate work habits, including inattentiveness.

STEPHENSON said he reported concerns about maintenance work requests (MWRs) that were routed to the control room for signature. STEPHENSON said the control and tracking of the MWRs was often lost because, in many cases, the work did not start during the shift in which the MWR was submitted to the control room, but rather the work was started on a later shift. Both PENDLETON and STEPHENSON said they turned these issues over to QA management, but nothing was done about them.

Coordination with the NRC Staff

On January 11, 1995, OI:RIV and Howard BUNDY and Bill McNEIL, NRC:RIV technical staff members, discussed, via telephone with PENDLETON, some of the issues addressed in the transcribed interview with PENDLETON on January 5, 1995. McNEIL determined the issues that PENDLETON raised were not safety significant.

On January 13, 1995, OI:RIV requested the NRC:RIV staff review the transcribed interviews of PENDLETON and STEPHENSON to determine if any safety/technical concerns existed.

On January 31, 1995, OI:RIV and Phil HARRELL, Reactor Inspector, discussed, via telephone with STEPHENSON, some of the issues addressed in the transcribed interview with STEPHENSON on January 5, 1995. HARRELL determined the issues that STEPHENSON raised appeared not to be safety significant; however, he said these items would be reviewed later during an NRC inspection at CNS. A review of the technical issues, including the inspection report, are addressed later in this report and are attached as Exhibits 8, 9, and 10.

On February 8, 1995, OI:RIV and Ian BARNES, Technical Assistant, discussed, via telephone with PENDLETON, some of the issues addressed in the transcribed interview with PENDLETON on January 5, 1995. BARNES determined the issues that PENDLETON raised were not safety significant.

Review of Documentation

During the course of this investigation, the investigator reviewed documents provided by NRC:RIV technical staff. The documents determined pertinent to this investigation are delineated in this section.

NRC Review of Allegations RIV-94-A-0183 and -0184, dated February 4, 1995

On February 4, 1995, HARRELL, provided OI:RIV with a first of a two part review of Exhibits 4 and 6 [PENDLETON's and STEPHENSON's transcribed

interviews]. On February 1, 1995, the Cooper Restart Panel reviewed 13 items as a result of the review of the transcripts and telephonic discussions with PENDLETON. It was determined by the Cooper Restart Panel that none of the items were considered to be restart items (Exhibit 8).

INVESTIGATOR'S NOTE: Exhibit 8 depicts the technical issues identified by NRC:RIV technical staff.

NRC Follow-up Review of Allegations RIV-94-A-0183 AND -0184, dated March 3, 1995

On March 3, 1995, HARRELL provided OI:RIV with the second part of the review of Exhibits 4 and 6 [PENDLETON's and STEPHENSON's transcribed interviews]. HARRELL determined, with exception of Item 5 of the follow-up review, that none of the items from the allegation were identified as a violation of the NRC rules and regulations (Exhibit 9).

INVESTIGATOR'S NOTE: Exhibit 9 depicts the technical issues identified during the conduct of an NRC inspection that were considered safety significant in NRC Inspection Report #50-298/95-04.

NRC Inspection Report 50-298/95-04 Notice of Violation (Exhibit 10)

NRC inspectors conducted an inspection February 6 through March 25, 1995, at CNS. The inspection included a review of activities authorized for CNS. Based on the results of this inspection, certain licensed activities appeared to be in violation of NRC requirements as specified in the report's Notice of Violation section. It was determined that none of the allegations made by PENDLETON and STEPHENSON were identified as safety significant (Exhibit 10).

Allegation: Alleged Discrimination for Reporting a Safety Concern to Management

Summary

The following individuals were interviewed by RIV:OI on the dates indicated regarding the former employees who were allegedly discriminated against and terminated from employment for reporting safety concerns to CNS management personnel.

| <u>Name</u> | <u>Position</u> | <u>Date of Interview</u> |
|----------------------|-------------------------------------|--------------------------|
| Nelson M. PENDLETON | former CNS QA Specialist | January 5, 1995 |
| Donald E. STEPHENSON | former CNS QA Specialist | January 5, 1995 |
| Michael D. ALLEN | CNS Acting QA Program Supervisor | January 25, 1995 |
| Sterling L. BRAY | CNS QA Assessment Supervisor | January 25, 1995 |
| Kurtis KENT | CNS QA Specialist | January 25, 1995 |
| Richard L. GIBSON | CNS Senior QA Specialist | January 25, 1995 |
| Charles H. PUTNAM | CNS Acting QA Audit Supervisor | January 26, 1995 |
| Ronnie C. DEATZ | CNS Acting QA Operations Supervisor | January 26, 1995 |
| Garrett E. SMITH | CNS QA Operations Manager | January 26, 1995 |
| Verne L. WOLSTENHOLM | CNS Senior Manager of Projects | January 26, 1995 |

Evidence

All of the individuals interviewed stated that PENDLETON and STEPHENSON were not performing to the expectations of management nor were they performing to the caliber of the rest of the QA staff. Almost all of the individuals said the differences in duties and responsibilities between QC and QA attributed to the "inadequate performance" by PENDLETON and STEPHENSON [both, PENDLETON and STEPHENSON had previously worked in QC, not QA]. None of the individuals were surprised that PENDLETON and STEPHENSON were terminated because they indicated that: (1) their work was substandard, and they were not performing satisfactorily; (2) they were not helping reduce the back log QA had; (3) they spent a lot of time either on the phone or outside at the smoking area; and (4) they were not identifying safety concerns, instead they were focusing on items that were considered insignificant. All of the individuals denied that PENDLETON and STEPHENSON were discriminated against and terminated for reporting safety concerns, and they felt the licensee was justified in terminating them.

All of the interviewees said they felt free to report any safety concerns without fear of reprisal from management and that they had never been told not to report safety concerns.

Copies of the transcripts of interview (Exhibits 11-18) are attached to this report.

Conclusions

Based on the evidence developed during the investigation, the allegation was not substantiated.

THIS PAGE LEFT BLANK INTENTIONALLY

LIST OF EXHIBITS

| <u>Exhibit No.</u> | <u>Description</u> |
|--------------------|---|
| 1 | Investigation Status Record, dated December 28, 1994. |
| 2 | Letters of Acceptance of PENDLETON and STEPHENSON, dated October 26 and October 31, 1994, respectively. |
| 3 | Letters to PENDLETON and STEPHENSON from CNS Human Resources, dated October 25, 1994. |
| 4 | Transcript of Interview with PENDLETON, dated January 5, 1995. |
| 5 | Notice of Termination for PENDLETON, dated December 20, 1994. |
| 6 | Transcript of Interview with STEPHENSON, dated January 5, 1995. |
| 7 | Notice of Termination for STEPHENSON, dated December 20, 1994. |
| 8 | Review of Allegations RIV-94-A-0183 and -0184. |
| 9 | Follow-up Review of Allegations RIV-94-A-0183 and -0184. |
| 10 | NRC Inspection Report # 50-298/95-04, dated May 16, 1995. |
| 11 | Transcript of Interview with ALLEN, dated January 25, 1995. |
| 12 | Transcript of Interview with BRAY, dated January 25, 1995. |
| 13 | Transcript of Interview with KENT, dated January 25, 1995. |
| 14 | Transcript of Interview with GIBSON, dated January 25, 1995. |
| 15 | Transcript of Interview with PUTNAM, dated January 26, 1995. |
| 16 | Transcript of Interview with DEATZ, dated January 26, 1995. |
| 17 | Transcript of Interview with SMITH, dated January 26, 1995. |
| 18 | Report of Interview with WOLSTENHOLM, dated January 26, 1995. |