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RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

RESPONSE TYPE

FINAL

PARTIAL #15

DATE

JAN - 5 1995

DOCKET NUMBER(S) (if applicable)

REQUESTER

John W. Lawrence

PART I.—AGENCY RECORDS RELEASED OR NOT LOCATED (See checked boxes)

- No agency records subject to the request have been located.
 - No additional agency records subject to the request have been located.
 - Requested records are available through another public distribution program. See Comments section.
 - Agency records subject to the request that are identified in Appendix(es) II are already available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.
 - Agency records subject to the request that are identified in Appendix(es) JJ are being made available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number.
 - The nonproprietary version of the proposal(s) that you agreed to accept in a telephone conversation with a member of my staff is now being made available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number.
 - Agency records subject to the request that are identified in Appendix(es) _____ may be inspected and copied at the NRC Local Public Document Room identified in the Comments section.
 - Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.
 - Agency records subject to the request are enclosed. *
 - Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.
- Fees
- You will be billed by the NRC for fees totaling \$ _____.
- You will receive a refund from the NRC in the amount of \$ _____.
- In view of NRC's response to this request, no further action is being taken on appeal letter dated _____, No. _____

PART II. A—INFORMATION WITHHELD FROM PUBLIC DISCLOSURE

- Certain information in the requested records is being withheld from public disclosure pursuant to the exemptions described in and for the reasons stated in Part II, B, C, and D. Any released portions of the documents for which only part of the record is being withheld are being made available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC in a folder under this FOIA number.

COMMENTS

*Agency records subject to your FOIA request that are identified on the enclosed Appendix JJ and the releasable portions of the agency records identified on the enclosed Appendix KK are enclosed.

The NRC is continuing to review records subject to your request. We will notify you upon completion of the review.

SIGNATURE, DIRECTOR, DIVISION OF FREEDOM OF INFORMATION AND PUBLICATIONS SERVICES

Samuel L. Bowley

9510260099 950105
PDR FOIA
LAWRENC93-642 PDR

**RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) REQUEST
(CONTINUATION)**

FOIA NUMBER(S)

FOIA — 93-642

DATE

JAN - 5 1995

PART II. B — APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix(es) KK are being withheld in their entirety or in part under the Exemption No.(s) and for the reason(s) given below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.17(a) of NRC regulations.

1. The withheld information is properly classified pursuant to Executive Order. (Exemption 1)
2. The withheld information relates solely to the internal personnel rules and procedures of NRC. (Exemption 2)
3. The withheld information is specifically exempted from public disclosure by statute indicated. (Exemption 3)
 - Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
 - Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
4. The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated. (Exemption 4)
 - The information is considered to be confidential business (proprietary) information.
 - The information is considered to be proprietary information pursuant to 10 CFR 2.790(d)(1).
 - The information was submitted and received in confidence pursuant to 10 CFR 2.790(d)(2).
5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (Exemption 5). Applicable Privilege:
 - Deliberative Process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
 - Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation.)
 - Attorney-client privilege. (Confidential communications between an attorney and his/her client.)
6. The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy. (Exemption 6)
7. The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated. (Exemption 7)
 - Disclosure could reasonably be expected to interfere with an enforcement proceeding because it could reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow culprits to take action to shield potential wrongdoing or a violation of NRC requirements from investigators. (Exemption 7 (A))
 - Disclosure would constitute an unwarranted invasion of personal privacy. (Exemption 7(C))
 - The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources. (Exemption 7 (D))
- OTHER

PART II. C — DENYING OFFICIALS

Pursuant to 10 CFR 9.25(b) and/or 9.25(c) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The persons responsible for the denial are those officials identified below as denying officials and the Director, Division of Freedom of Information and Publications Services, Office of Administration, for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECRETARY	IG
L. J. Callan	Regional Administrator Region IV	Appendix KK	X		

PART II. D — APPEAL RIGHTS

The denial by each denying official identified in Part II.C may be appealed to the Appellate Official identified there. Any such appeal must be made in writing within 30 days of receipt of this response. Appeals must be addressed, as appropriate, to the Executive Director for Operations, to the Secretary of the Commission, or to the Inspector General, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision."

APPENDIX II
DOCUMENTS ALREADY AVAILABLE IN THE PDR

NUMBER	DATE	DESCRIPTION
1.	08/14/92	Letter from Hall to NRC, subject: South Texas Project, Units 1 and 2, Circumstances Surrounding Revocation of Individuals Access (16 pages) PDR Accession No. 9402030014

APPENDIX JJ
DOCUMENTS BEING PLACED IN THE PDR

NUMBER	DATE	DESCRIPTION
1.	08/21/92	Letter from Hall to Milhoan (6 pages)
2.	01/05/93	Allegation Review Panel Summary (4 pages)
3.	05/11/93	Memorandum from Wise to Murray (1 page)
4.	05/12/93	Memorandum from Johnson to Wise (1 page)
5.	05/27/93	Allegation Review Panel Summary (1 page)
6.	06/01/93	Letter from Beach to Cottle (3 pages)
7.	06/02/93	Allegation Management System - Allegation No. RIV-93-A-0072 (1 page)
8.	06/23/93	Memorandum from Dexter to Wise (1 page)
9.	07/08/93	Memorandum from Wise to Williamson (1 page)
10.	09/08/93	Letter from Cottle to Beach (3 pages)
11.	11/18/93	Allegation Management System - Allegation No. RIV-93-A-0054 (1 page)
12.	11/19/93	Memorandum from Loveless to Wise (4 pages)
13.	undated	Draft write-up regarding allegations (5 pages)

APPENDIX KK
DOCUMENTS BEING RELEASED IN PART

NUMBER	DATE	DESCRIPTION
1.	10/27/86	Allegation Review Sheet (1 page) Exemption 6
2.	11/06/86	Note concerning South Texas Project (1 page) Exemption 6
3.	11/12/86	Memorandum regarding response to Senator..with attached draft letter (2 page) Exemption 6
4.	12/19/86	Allegation Action (1 page) Exemption 6
5.	01/09/87	Allegation Action (1 page) Exemption 6
6.	01/13/87	Memorandum regarding Allegation 4-86-A- 111 (6 pages) Exemption 6
7.	01/14/87	Memorandum regarding response to Senator..with attached draft letter (2 pages) Exemption 6
8.	06/02/92	Enforcement Data Sheet (1 page) Exemption 6
9.	11/07/92	Enforcement Data Sheet (2 pages) Exemption 6
10.	01/20/93	Allegation Management Syatem (1 page) Exemption 6
11.	undated	Memorandum regarding Allegation (1 page) Exemption 6

The Light company

Houston Lighting & Power South Texas Project Electric Generating Station P. O. Box 289 Wadsworth, Texas 77483

August 21, 1992
ST-HL-AE-4186
File: G03.17
10CFR2
10CFR50.7

U.S. Nuclear Regulatory Commission
Document Control Desk
Washington, D.C. 20555

Attention: Mr. James L. Milhoan
Regional Administrator, Region IV

South Texas Project
Units 1 and 2
Docket No. 50-498, 50-499
Response to NRC Concerns Regarding Alleged
Discrimination Against Former Contract Employee

Reference: Letter from James L. Milhoan to D. P. Hall dated
August 4, 1992

Dear Mr. Milhoan:

In the referenced letter, the NRC requested HL&P to:

1. Provide the basis for the action regarding the former contract employee discussed in the Department of Labor (DOL) letter dated June 30, 1992, and
2. Describe any actions taken or planned to assure that the actions taken above do not have a chilling effect in discouraging other licensee or contractor employees from raising perceived safety concerns.

With regard to Item 1, HL&P disagrees with the DOL conclusion and has appealed the Area Director's decision. We believe the company's action was appropriate and in conformance with regulatory requirements. HL&P has provided a complete description of the circumstances surrounding the revocation of the employee's access in a letter dated August 14, 1992 (ST-HL-AE-4169).

55/1

With regard to Item 2, HL&P has consistently stressed the importance of identifying safety concerns. The existing STP programs and policies have been adequate and will continue to be adequate to assure that there is no chilling effect that would discourage licensee or contractor employees from raising safety concerns. These programs and policies will be improved, as necessary, to keep pace with industry practices and to assure their continued effectiveness.

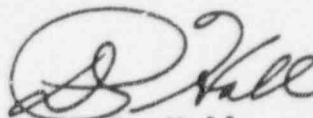
HL&P management regards the identification of safety concerns as an intrinsic aspect of employee and organization integrity. Management expectations regarding employee (including contractor) integrity are plainly described in Nuclear Group Policies and Station Work Standards. These expectations, which stress the obligation of employees to bring safety related concerns to the attention of responsible personnel, are emphasized in General Employee Training, were conveyed to all station personnel in special management meetings in 1991, and are emphasized in other meetings with station employees.

To reinforce this policy, HL&P management has expressly recognized the contribution of employees who have identified safety concerns. For example, the System Engineer who identified a concern regarding the reactor trip surveillance which resulted in both units entering Technical Specification 3.0.3 on May 19, 1992, was given an award for his action in the presence of the majority of the Station supervisory personnel. He is now participating in a team review of surveillances to determine if the problem found on the reactor trip surveillance extends to other surveillances. This award and the related follow-up evaluation of the employee's concern are demonstrable evidence to everyone at STP of management's total support of, and commitment to, proactive employee involvement in identifying safety concerns. In another similar case, a Shift Technical Advisor (STA) reviewing Unit 2 December 24, 1991 post-trip data in July 1992 found that the Reactor Coolant System (RCS) had depressurized below the Safety Injection (SI) setpoint during trip recovery and that SI did not actuate because of post-trip reactor trip breaker configuration. This was an astute observation by the STA which was unhesitatingly brought to management's attention; it is also the type of matter which might never have surfaced in an environment less oriented toward encouraging employees to identify safety issues. These recent illustrations of exemplary employee action would not occur on a site where there was a prevalent "chilling effect" on raising safety concerns.

Effective programs, such as SPEAKOUT (the STP employee concern identification program) and the Station Problem Report process, have existed to facilitate the identification and resolution of safety concerns. These programs are widely used by STP personnel and have been reviewed by the NRC. In the NRC Inspection report dated June 1, 1992 regarding the investigation of the concerns raised by the subject contract employee (NRC Nos. 50-498/92-07; 50-499/92-07), the NRC made the following observation regarding SPEAKOUT: "The licensee's Speakout program was found to be an effective factor in resolving employee concerns. Employees were well aware of the program, and several indicated that they had provided concerns to Speakout. Most of the licensee's staff and contractors stated that they were generally confident of their freedom from reprisal when taking concerns to Speakout". As the attached graph shows, the number of contacts made with SPEAKOUT has not decreased since the subject action was taken in February.

To provide further assurance that no chilling effect has occurred, HL&P contracted with an independent consultant for a review of employee attitudes. That review, completed last month noted that, "without exception, those interviewed clearly understood the process for raising safety related concerns, and indicated they would take such concerns to whatever level needed within the STPEGS management chain or if ever necessary outside (NRC) to receive a satisfactory resolution. There was no indication of a fear of retribution for raising safety concerns." HL&P has also reviewed the access authorization program and found no bias against individuals who have raised safety concerns.

In summary, HL&P believes the actions in this case were proper and will be found so on appeal. HL&P also believes that both management and staff at STP have demonstrated a continuing commitment to identifying and resolving safety concerns. If there are any questions regarding this response, please contact me or Mr. W. J. Jump.



D. P. Hall
Group Vice President,
Nuclear

AWH/nl

Houston Lighting & Power Company
South Texas Project Electric Generating Station

ST-HL-AE- 4186
File No.: G03.17
Page 4

cc:

Regional Administrator, Region IV
Nuclear Regulatory Commission
611 Ryan Plaza Drive, Suite 400
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U.S. Nuclear Regulatory Commission
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Atlanta, GA 30339-3064

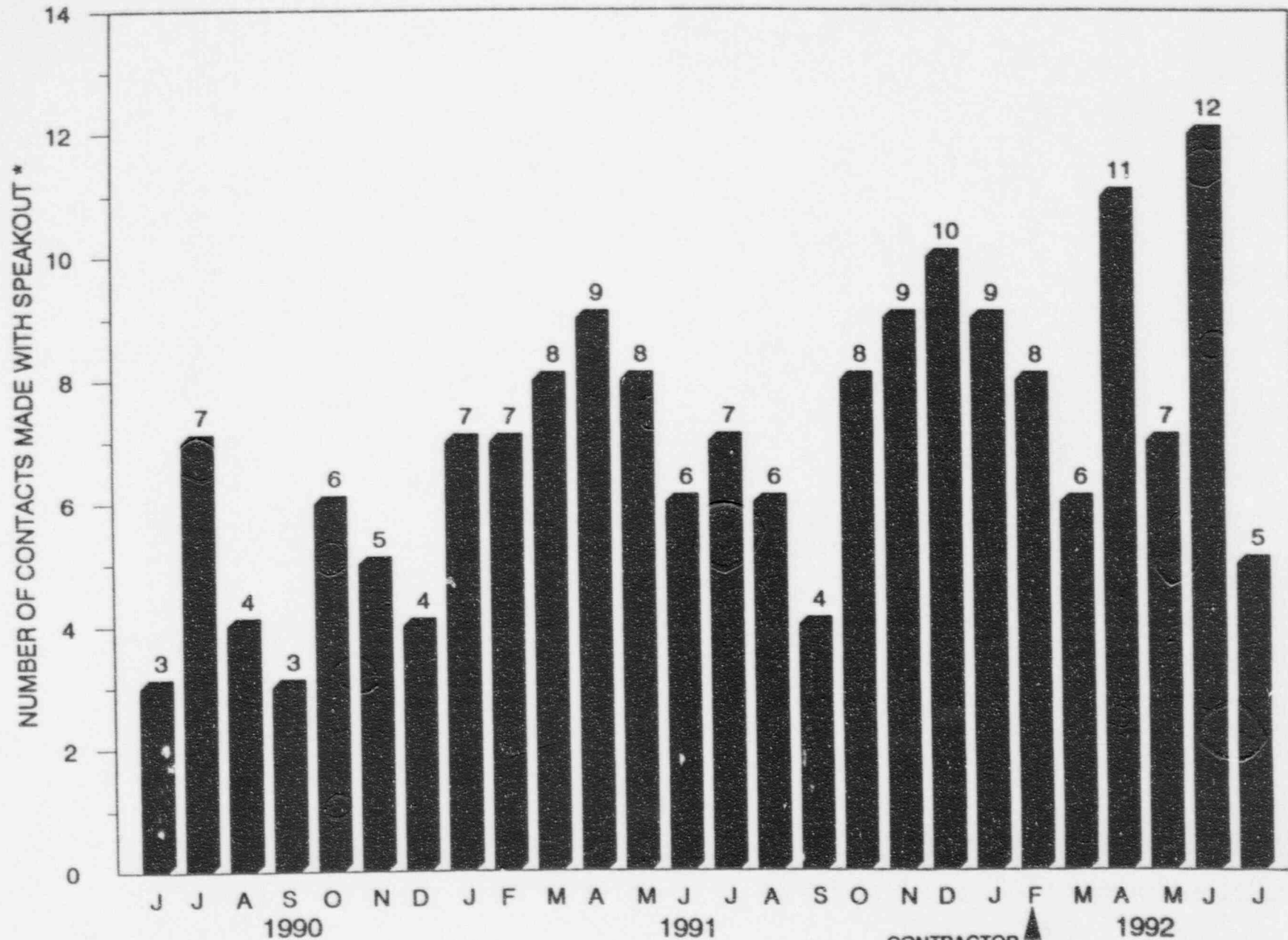
Dr. Joseph M. Hendrie
50 Bellport Lane
Bellport, NY 11713

D. K. Lacker
Bureau of Radiation Control
Texas Department of Health
1100 West 49th Street
Austin, TX 78756-3189

Revised 10/11/91

L4/NRC/

SPEAKOUT CONCERNS



* A CONTACT MAY BE COMPRISED OF MORE THAN ONE CONCERN.

CONTRACTOR
DENIED ACCESS ↑

STP G-0798

ATTACHMENT
 ST-HL-AE-4/86
 PAGE 1 OF 1

copy for
① ~~J. S. ...~~
② ~~D. R.~~

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- 2. WISE
- 3. WILLIAMSON
- 4. BEACH → GWYNN → HOWELL
- 5. LIEBERMAN → ROSANO
- 6.
- 7.
- 8.

FROM: *ASB* GARY SANBORN, ENFORCEMENT OFFICER

DATE: 9/1/92

SUBJECT:

HL&P RESPONSE TO CHILLING EFFECT LETTER (SAPORITO)

MESSAGE:

HERE FOR YOUR PERUSAL ARE: ① HL&P'S AUG. 21
 REPLY TO OUR AUG. 4 CHILLING EFFECT LETTER;
 AND ② HL&P'S AUG. 14 LETTER IN WHICH THEY
 PROVIDED OI THEIR BASIS FOR REVOKING SAPORITO'S ACCESS.
 I REMIND YOU THAT OI IS INVESTIGATING THIS
 MATTER AND IS IN THE PROCESS OF PREPARING
 ITS REPORT. *CSA*

WARNING: ATTACHED MATERIAL MAY CONTAIN INFORMATION THAT SHOULD NOT BE DISSEMINATED OR DISCUSSED OUTSIDE OF THE NRC.

E-115-5 Refer to OI



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV

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

MAY 11 1993

MEMORANDUM FOR: Blaine Murray, Chief, Facilities Inspection Programs
Section, DRSS

FROM: Russell Wise, Allegations Coordinator *Russ*

SUBJECT: SOUTH TEXAS PROJECT - OI TRANSCRIPT OF INTERVIEW OF ALLEGER
- POTENTIAL SAFEGUARDS CONCERNS

OI has requested that a review be performed of the attached transcript to determine whether safety/technical issues exist, and whether the issues warrant further review.

OI has also requested that a written response be provided. Should you have any questions, please contact me or Len Williamson.

cc:
Allegation File

9507250047

REV

Refer to RIV

55/3




UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV

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

May 12, 1993

MEMORANDUM FOR: Russ Wise, Allegations Coordinator

FROM: William D. Johnson, Chief, Project Section A,
Division of Reactor Projects, Region IV 

SUBJECT: Review of Transcript of Interview of Allegor

In response to your memo of May 11, 1993, I have reviewed the transcript taken in Bay City on April 12, 1993. I did not identify any nuclear safety or technical issues. There are many references to improper worker safety practices including failure to use safety harnesses and improper control of asbestos. The asbestos control allegations appear to be significant with willful open abatement and cover-up of this practice. NRC does not directly regulate non-radiological worker safety or asbestos control so a referral to OSHA would probable be appropriate.

cc:
A. B. Beach

9507250051 REL

Region IV 55/4