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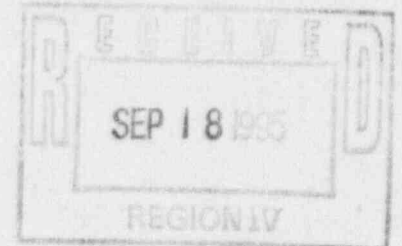
Public Service
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September 13, 1995
Fort St. Vrain
P-95082

A. Clegg Crawford
Vice President
Engineering and
Operations Support

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



Docket No. 50-267

SUBJECT: Reply to a Notice of Violation (NRC Office of Investigations Report 4-93-013R, EA 95-045)

REFERENCE: NRC Letter, Callan to Crawford, dated August 14, 1995 (G-95133)

Gentlemen:

This provides Public Service Company of Colorado's (PSCo) response to the Notice of Violation transmitted by the referenced letter, regarding activities at the Fort St. Vrain (FSV) Nuclear Station. This Notice of Violation resulted from an NRC investigation initiated in September 1993 and completed in February 1995.

During this investigation, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions," (60 FR 34381, June 30, 1995) the violations are set forth below:

Unlawful Discrimination Against Workers For Engaging in Protected Activities.

10 CFR 50.7(a) prohibits discrimination by a Commission licensee or contractor or subcontractor of any licensee against an employee for engaging in certain protected activities. Discrimination includes actions that relate to compensation, terms, conditions or privileges of employment. Protected activities are described in Section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or Energy Reorganization Act.

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Contrary to the above, during the timeframe of approximately 1992 through February 1994, individuals employed by Morrison-Knudsen Ferguson and Scientific Ecology Group at Fort St. Vrain were unlawfully discriminated against in that they were subjected to a series of actions which comprised a hostile work environment in retaliation for engaging in protected activities. Specifically, as reflected in the December 1994 investigation report prepared for the licensee by the law firm of Stier, Anderson and Malone and acknowledged by the licensee during the June 1, 1995 enforcement conference, in response to the identification of safety issues or concerns by certain employees, Morrison-Knudsen supervisors exhibited a pattern of intimidating conduct against their workforce and administered their policies in a manner that created an atmosphere in which it was the perception of a significant cross section of the workforce at Fort St. Vrain that production was emphasized over safety and procedural compliance and raising safety concerns could result in retaliation.

This is a Severity Level II violation (Supplement VII).

This violation involves actions on the part of both PSCo and Morrison Knudsen (MK), a major contractor on the Fort St. Vrain decommissioning project. As the licensee for the Fort St. Vrain Nuclear Station, PSCo assumes responsibility for the violation, and this letter addresses PSCo's reasons for the violation and corrective actions taken by PSCo in response. Morrison Knudsen actions are being addressed via separate correspondence, in response to the Notice of Violation issued to them on August 14, 1995 (EA 95-079).

1) **Reason for the Violation**

This violation is admitted. PSCo concurs with the independent assessment conducted by the law firm of Stier, Anderson, and Malone that an atmosphere existed in which the perception of some employees was that production was emphasized over safety and procedural compliance, and that raising safety concerns could result in retaliation.

There are numerous contributing cause factors for this violation which will be addressed in this response letter. The underlying reason why PSCo did not prevent or recognize the discrimination or the general worker perception that raising safety concerns could result in retaliation, was that PSCo's contractor oversight personnel perceived that personnel matters and supervisory styles were matters between project contractors and their employees or their employees' union representatives.

PSCo employed independent contractors with experience in the nuclear industry to perform FSV decommissioning tasks. PSCo's oversight personnel spent considerable time in the field ensuring that decommissioning activities were performed in compliance with the Decommissioning Plan, and in accordance with the provisions of the contract. While some oversight field personnel may have observed what in hindsight was probably harassing or intimidating behavior, it was judged to be part of the construction culture. PSCo acknowledged that the construction culture is very performance oriented and is considerably different from an operating power plant environment. Construction supervision was seen as treating workers harshly at times, but as long as safety, regulatory compliance, or project performance was not compromised, this was considered a personnel matter between the contractor and their employees and it was not identified to upper site management. A few specific instances were brought to contractor supervision's attention; however, these were not properly handled or followed up since upper management was not informed.

Another consideration why PSCo did not get involved in the treatment of workers by their supervision is that PSCo did not want to be perceived as co-employers of contract personnel. PSCo had received an earlier violation for terminating a contract employee who had raised safety concerns (EA 92-152) and wanted to avoid involvement in employment decisions made by project contractors.

The specific safety concerns identified by the four terminated MK laborers in March 1993 had been investigated by PSCo and determined to not involve an unsafe work environment. Also, PSCo was not involved in nor aware of specific workforce personnel actions taken by the decommissioning contractors. Thus, when the four laborers were terminated, PSCo did not recognize this as an act that was, or could be perceived as being, in retaliation for engaging in protected activities.

As identified in the referenced letter, one of the contributing cause factors for this violation was that PSCo did not establish a cohesive team between all of the decommissioning contractors and PSCo at the beginning of the project. The day to day goals and objectives of the different organizations involved in the project were often contradictory. By their very nature these different goals will lead to differences of opinion and conflicts. The failure to build a team attitude with mutual respect for each organization's responsibilities allowed individuals in each organization to create a hostile work environment.

With regards to training, PSCo's employee training included the information on NRC Form 3, which explains worker protection against discrimination for raising safety concerns. However, as identified in the referenced letter, PSCo acknowledges that this training did not specifically mention 10 CFR 50.7. This may have contributed to the workforce perception that safety was not emphasized as much as production.

An additional contributing cause identified in the referenced letter is that PSCo did not establish a communication mechanism for identifying employee or contractor employee concerns independent of the normal management chain. The absence of such a vehicle for identifying concerns without fear of the consequences also likely contributed to the workforce perception that safety was not emphasized as much as production. Workers could identify concerns to PSCo oversight individuals who were not in their management chain, but this did not provide anonymity and there was no assurance of confidentiality. However, PSCo maintained an open door policy that on occasion was successfully used by contractor employees to raise concerns.

PSCo would like to emphasize that the above acknowledged weakness in recognizing or preventing harassing or intimidating behavior applies only to our oversight of our contractors. PSCo's management and employees are and were trained and reminded of the need to avoid discriminatory behavior and to avoid actions or behavior that is offensive to another employee. PSCo policy is that each employee has a right to a discrimination-free work environment, whether such discrimination comes from another employee or from someone outside of PSCo, and this position has been communicated during numerous employee meetings.

2) Corrective Steps That Have Been Taken And The Results Achieved

PSCo's immediate and long term corrective actions have been comprehensive and extensive, as described during a briefing to NRC Region IV on August 4, 1994, and during the enforcement conference on June 1, 1995. The August 4, 1994 meeting presentation materials were entered onto the docket as part of the NRC's meeting summary letter dated August 17, 1994, from S. J. Collins (NRC) to A. C. Crawford (PSCo). The presentation materials from the enforcement conference are attached. These corrective actions and the results achieved are summarized below:

• **Third Party Investigation**

On February 8, 1994, PSCo requested that the Westinghouse Team (WT), which consists of Westinghouse, MK, and Scientific Ecology Group (SEG), address a possible chilled atmosphere in the workforce regarding raising safety concerns. This request resulted after the NRC notified us on January 12, 1994 of potential harassment and intimidation allegations regarding four former MK laborers, and after a February 3, 1994 confrontation between an MK Superintendent and an SEG Radiation Protection Technician.

Based on observations from PSCo's oversight personnel, on the NRC's ongoing investigation into the allegations, and on the Westinghouse Team's discussions with their workforce, PSCo decided to conduct a third party investigation of potential harassment and intimidation issues and of overall site relationships. On February 22, 1994, the law firm of Stier, Anderson, and Malone was retained to conduct this investigation. Executive management of PSCo, Westinghouse, MK, and SEG were involved in the identification and resolution of these concerns and the Westinghouse Team agreed to be involved in the independent investigation.

The Stier, Anderson, and Malone independent assessment was a comprehensive and thorough review wherein the investigators were not restricted in any manner. This investigation also dealt with problems with the radiation protection program, and required over one year before the final report was issued, at a cost to PSCo of approximately \$1 million. Over a nine month period of time, more than 100 individuals were interviewed, which represented approximately 50% of the workforce at the time, and 15,000 pages of documentation were reviewed. PSCo also committed one full time radiation protection professional to assist the investigation team.

The result of this independent assessment was that PSCo and the WT were able to identify at an early stage in the investigation the perception among the workforce that production was emphasized over safety and procedure compliance, and that raising safety concerns could result in retaliation. PSCo and the WT were able to define and implement corrective actions, in most cases prior to completion of the investigation, in a timely manner to support continued safe performance of dismantlement activities.

- **Personnel Actions**

During a Semiannual Executive management meeting on February 24, 1994, PSCo discussed harassment and intimidation concerns, including the February 3 confrontation between an MK Superintendent and an SEG Radiation Protection Technician. As a direct result of this executive management discussion, the MK Superintendent was removed from the site.

Other supervisory personnel were counselled with regards to the open door policy and trained in 10 CFR 50.7 provisions.

- **Training**

PSCo and the WT have held numerous training sessions to emphasize and re-emphasize the importance of safety, the need to identify safety concerns without fear of retaliation,

and the elements of 10 CFR 50.7. PSCo emphasized our core values of safety, excellence, and finding a better way.

The importance of safety has been a part of general employee training, and it was re-emphasized after the harassment and intimidation concerns were identified. On March 9 and 10, 1994, PSCo and WT management met with all site employees to discuss core values and proper work place conduct. At that time, PSCo emphasized that safety is always first and that employees have the right and responsibility to stop work if they feel that an unsafe condition exists. PSCo also emphasized that employees have the right to a work environment where they are free to raise safety concerns without fear of retaliation. High standards of business ethics were also stressed, including open communications, procedure compliance, and teamwork. During this meeting PSCo discussed specific harassment and intimidation incidents and the site atmosphere regarding raising safety concerns. PSCo's open door policy was discussed and an employee concern program was introduced, consisting of an off-site, anonymous telephone hot line (ombudsman). Also, the investigations being conducted by the NRC and by Stier, Anderson, and Malone were discussed and employees were encouraged to cooperate truthfully and objectively.

Subsequent to this meeting, PSCo and the WT shut down all decommissioning activities for 16 calendar days, although this was primarily due to problems discovered concurrently regarding radiation protection records. During this shutdown period, numerous employee meetings, training sessions, and team building sessions were held during which the corporate philosophies of safety over production were re-emphasized.

As a result of this training, all employees are aware of management's policies regarding safety, of their right and responsibility to stop work, and of their ability to anonymously raise safety issues independent of their supervisory chain.

- **Enhanced Communications and Oversight**

PSCo held numerous meetings with employees wherein the importance of open, honest communications was expressed. It is recognized that disagreements and differences of opinion will always exist in a large project involving multiple disciplines with different objectives. PSCo and the WT emphasized that these differences should be discussed and elevated to a management level where they can be effectively resolved.

PSCo and WT management have encouraged enhanced communications on many levels. PSCo increased the presence of oversight personnel in the field. Although many PSCo personnel had been observing project performance in the field, a group of engineers,

quality assurance personnel, radiation protection personnel, and PSCo's safety advisor were tasked with performing monitoring and other field observations, and reporting to management at least twice per month. This has permitted a more directed oversight effort and has provided greater management awareness of workforce concerns and conditions.

PSCo has also initiated meetings between management of PSCo and the WT on a weekly basis with specific emphasis on personnel matters. This allows personnel concerns to be dealt with on an open and ongoing basis.

Safety issues are also discussed during daily site-wide plan of the day meetings, to promote broad awareness of specific and changing safety conditions. Safety meetings have been continued on a periodic basis for site employees: weekly toolbox safety meetings for craft personnel, monthly safety meetings for Radiation Protection Technicians, and monthly safety meetings for PSCo personnel. At these and other opportunities, employees are encouraged to discuss safety concerns with safety representatives of both PSCo and MK.

PSCo has implemented an exit interview program for PSCo and contractor employees whereby employees who are terminated or released from the project may identify any concerns.

- **Team Building**

PSCo supported team building efforts among the organizations on site. The WT conducted numerous team building sessions among Westinghouse, SEG, and MK supervisory personnel. These sessions have promoted a greater awareness of the different perspectives of the various organizations. The team building technique has been found useful in other instances and was recently used to promote the team approach to final site radiological survey activities among PSCo, Westinghouse, and SEG personnel.

- **Hot Line**

PSCo established a telephone line whereby individuals can identify safety or other concerns in a manner which is independent of the supervisory chain. This hot line to an ombudsman is an off-site, monitored telephone line, and is identified on various site-wide bulletin boards. Individuals using the hot line may remain anonymous, if desired, and concerns are addressed to appropriate corporate management. The hot line has been used on two occasions to date.

3) Corrective Steps That Will Be Taken To Avoid Further Violations

PSCo and the Westinghouse Team will continue the programs and management involvement described above. PSCo will continue their oversight presence and will periodically monitor workforce perceptions by surveys, questionnaires, and interviews. The results of these perceptions will be communicated to management in addition to PSCo oversight personnel's periodic reporting of field observations. This will maintain management awareness of field concerns and allow management to direct oversight emphasis.

4) Date When Full Compliance Will Be Achieved

PSCo considers that the Fort St. Vrain decommissioning project is currently in full compliance with the requirements of 10 CFR 50.7, and was in full compliance within a very brief period after management initiated corrective actions for the perceived harassment and intimidation atmosphere.

This was confirmed by the Stier, Anderson, and Malone investigation report, which concluded that the major elements of harassment and intimidation were no longer present by March 1994.

PSCo considers that our corrective actions have been shown to be effective. Based on interviews and questionnaires, FSV workers feel that the FSV decommissioning project is safe and that they are comfortable bringing up safety concerns. There are various communication avenues available to employees to ensure that concerns can be identified comfortably and anonymously if so desired. When conflicts and problems arise, as they will in any such project, they are identified, brought to management's attention, and resolved.

Closing

PSCo regrets the events and actions that resulted in the serious violation identified above. However, we consider that the extensive corrective actions, our corporate emphasis on safety, our strong core values, and our strong team approach will ensure the safe completion of the Fort St. Vrain decommissioning project.

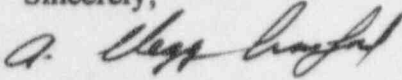
P-95082

September 13, 1995

Page 9

If you have any questions regarding this information, please contact Mr. M. H. Holmes at (303) 620-1701.

Sincerely,



A. Clegg Crawford
Vice President
Engineering and Operations Support

ACC/SWC

Attachment

cc: Regional Administrator, NRC Region IV

Mr. Robert M. Quillin, Director
Radiation Control Division
Colorado Department of Public Health and Environment

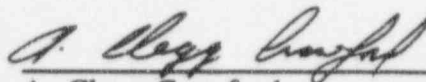
Mr. L. E. Pardi
Executive Vice President
Morrison Knudsen Corporation

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter)
)
Public Service Company of Colorado) Docket No. 50-267
Fort St. Vrain)

AFFIDAVIT

A. Clegg Crawford, being first duly sworn, deposes and says: That he is Vice President, Engineering and Operations Support, of Public Service Company of Colorado, the Licensee herein, that he has read the information presented in the attached letter and knows the contents thereof, and that the statements and matters set forth therein are true and correct to the best of his knowledge, information and belief.

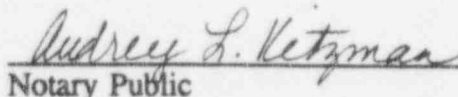


A. Clegg Crawford
Vice President
Engineering and Operations Support

STATE OF Colorado)

COUNTY OF Denver)

Subscribed and sworn to before me, a Notary Public on this
13th day of September, 1995



Notary Public

My commission expires November 29, 1995