



**Northeast
Nuclear Energy**

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The Northeast Utilities System

SEP 30 1998

Docket No. 50-423
B17448

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

Millstone Nuclear Power Station, Unit No. 3
Response to an Apparent Violation in Office of Investigations Report No. 1-97-039

This letter provides Northeast Nuclear Energy Company's (NNECO) response to your letter dated August 26, 1998⁽¹⁾ which identified an apparent violation of 10 CFR 50.7. NNECO received your letter on September 1, 1998. The referenced Office of Investigations (OI) report addresses alleged discrimination against two contract engineers by their supervisors, also NNECO contractors, for having raised concerns about the motor operated valve (MOV) program at Millstone. NNECO has not been provided with a copy of the OI report.

As discussed in Attachment 1, NNECO's Employee Concerns Program (ECP) investigated the events at issue and concluded that the two contract engineers had been improperly terminated. As a result, NNECO offered the contractors reinstatement. One of these individuals accepted the offer and returned to work at Millstone; the other declined NNECO's offer. The engineers' supervisor and manager -- who were also contractors -- resigned and left Millstone. NNECO provided the NRC with a copy of the ECP report of NNECO's investigation shortly after completion of the investigation.⁽²⁾

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- (1) NRC letter to NNECO, "NRC Office of Investigations Report No. 1-97-039 - Discrimination Against Contractor and Licensee Engineers for Raising Concerns About the Motor Operated Valve Program," dated August 26, 1998.
- (2) NNECO letter to NRC, B16746, "Millstone Nuclear Power Station, Unit Nos. 1, 2 and 3, Preliminary Report on Alleged Retaliation in the Motor Operated Valve Program," dated September 10, 1997.

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Retaliation against an employee who raises a concern is a serious matter and is inconsistent with Millstone's contemporary standards and culture. Since the arrival of the current leadership team at Millstone, beginning in September, 1996, management's message and expectations on this issue have been unambiguous and categorical.

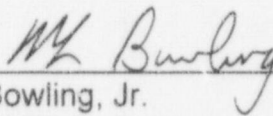
NNECO acknowledges that the apparent violation occurred. However, there are many mitigating factors which we request be considered. NNECO identified the problem and, as discussed in Attachment 1, took aggressive, prompt and timely action to remedy the individual circumstances of this case without any intervention by the NRC. Moreover, NNECO has taken effective and comprehensive corrective action to improve the overall safety conscious work environment at Millstone. Given these improvements, the conditions which gave rise to the discrimination reflected in this incident are not present today at Millstone. It is for these reasons that NNECO believes it appropriate for the NRC to consider exercising its enforcement discretion in this matter.

There are no new commitments included in this submittal.

If you have any questions, please contact Mr. Mario Robles at (860) 447-1791, Ext. 0279.

Very truly yours,

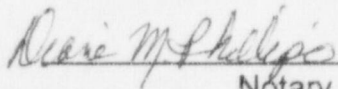
NORTHEAST NUCLEAR ENERGY COMPANY



Martin L. Bowling, Jr.
Recovery Officer - Technical Services

Sworn to and subscribed before me

this 30th day of September, 1998


Notary Public

DIANE M. PHILLIPO
Notary Public

My Commission Expires Dec. 31, 2000

My Commission expires _____

cc: See Page 3

cc: H. J. Miller, Region I Administrator
W. D. Lanning, Director, Millstone Inspections
J. W. Andersen, NRC Project Manager, Millstone Unit No. 3
A. C. Cerne, Senior Resident Inspector, Millstone Unit No. 3
E. V. Imbro, Director, Millstone ICAVP Inspections
W. M. Dean, Director, Millstone Project Directorate

B17448

Attachment 1

Millstone Nuclear Power Station, Unit No. 3

Response to an Apparent Violation in
NRC Office of Investigations Report No. 1-97-039

September 1998

**NNECO Response to
Apparent Violation of 10 CFR 50.7**

Reasons for the Apparent Violation

On September 10, 1997,⁽³⁾ NNECO provided the NRC with a copy of a report prepared by the Employee Concerns Program (ECP) summarizing the results of an investigation conducted by the ECP into the events surrounding the termination of two contractors and the modification of the responsibilities of a NNECO engineer. The ECP concluded that the contract supervisor and contract manager of these persons took retaliatory action against them because they had raised concerns about the MOV Program. On September 12, 1997,⁽⁴⁾ Little Harbor Consultants, Inc. (LHC) provided the NRC with a report summarizing its investigation of the MOV Program, which also concluded that retaliation by the contract supervisor and contract manager had occurred.

It is impossible to know with certainty why the contract supervisor and contract manager took the actions which form the basis for this event. During the course of the ECP investigation, both the contract supervisor and contract manager denied the allegation that the MOV engineers' engagement in protected activity was the motivation for their terminations and loss of responsibilities.

Corrective Action Taken and Results Achieved

Actions Taken to Respond to Specific Event

After senior management at Millstone became aware of the preliminary results of the ECP investigation, management directed that the terminated contractors be returned to a full pay status pending a conclusion of the investigation. When the ECP completed its investigation and informed management of the results, NNECO management directed that the terminated contractors receive an offer to return to Millstone in their former positions and that they be made whole for any financial damages. One of the contractors accepted the offer and returned to Millstone. The other contractor declined NNECO's offer. The NNECO engineer, whose responsibilities had been changed, was given a new position of equivalent responsibility, with the engineer's consent. In response to a recommendation made by LHC, NNECO reviewed the contractors' security records, which indicated that the records did not show an unfavorable

⁽³⁾ NNECO letter to NRC, B16746, "Millstone Nuclear Power Station, Unit Nos. 1, 2 and 3, Preliminary Report on Alleged Retaliation in the Motor Operator Valve Program," dated September 10, 1997. A redacted version of the ECP report was subsequently provided to NRC. NNECO letter to NRC, B16827, "Millstone Nuclear Power Station, Unit Nos. 1, 2, and 3, Response to Request for Withholding Information from Public Disclosure," dated October 24, 1997.

⁽⁴⁾ Little Harbor Consultants, Inc., letter to NRC, ITPOP 97-0030, "Millstone Nuclear Power Station, Unit Nos. 1, 2 and 3, Little Harbor Consultants, inc. (LHC) Report on Alleged Retaliation in the Motor Operated Valve Program," dated September 12, 1997.

termination status. In addition, in letters to the contractors dated October 7, 1997, the letters of termination previously issued to the contractors were retracted. The October 7th letters further stated that the services of the two contractors had been extended and a revised purchase order to that effect had been issued.⁽⁵⁾ As indicated above, one of the contractors returned to work at Millstone.

The contract supervisor and contract manager whom the ECP determined to be responsible, submitted their resignations and left the Millstone site.

The MOV group was also the focus of management attention following the event. An NU supervisor was appointed to replace the contractor supervisor. The MOV team had frequent meetings in which workers were encouraged to raise any questions they might have related to the work environment. Executive management also had frequent interaction with the MOV group following the event. An Employee Concerns Oversight Panel survey conducted in September 1997 indicated that there was no lingering chilling effect in the department as a result of the MOV event.

The Contracts Administration Department conducted its own self assessment in October 1997 to ensure that the factors that led to the MOV terminations were understood, and that process changes and training were implemented to preclude repetition of the event.

Actions Taken to Heighten Awareness of Safety Conscious Work Environment Issues

The MOV event caused NNECO management to critically assess and address the actions it was taking to address the overall work environment for raising safety concerns. Following the MOV event, a number of initiatives were undertaken at Millstone to address the work environment. As a first step, on September 26, 1997, a meeting of Millstone first-line supervisors and above was held, dedicated to the topic of a safety conscious work environment (SCWE). The purpose of the meeting was twofold: (1) to emphasize senior management's expectations regarding establishment of a SCWE and (2) to educate the management team on SCWE related topics, including recognizing and addressing chilling effects, retaliation and contractor co-employment issues. In recognition that the training provided at this initial session would not be all-inclusive, NNECO developed and, in November and December 1997, conducted, comprehensive SCWE training for the Millstone Leadership Team. The training, taught in a classroom setting of 20-30 participants with a combined lecture and case study format, was mandatory and attended by both NNECO employees and contractor personnel. The training highlighted the fundamentals of compliance with 10 CFR 50.7, and also emphasized the importance of avoiding and countering potential chilling effects caused by the discipline of persons who may have engaged in protected activity. To emphasize the many lessons learned in the treatment of the MOV engineers, the training included a specific case study of the MOV event (with

⁽⁵⁾ NNECO letter to LHC, B16851, "Millstone Nuclear Power Station, Units 1, 2 and 3, Response to Little Harbor Consultants Recommendations," dated December 29, 1997.

appropriate changes to protect personal privacy.) A second "all hands" management meeting was held on January 20, 1998, which addressed how the principles of a SCWE would come together at Millstone Station.

In October 1997, NNECO created the Executive Review Board (ERB) in large measure because of the events involving the MOV engineers. The ERB was established to provide additional checks and balances to ensure that disciplinary actions and contractor reductions at Millstone Station are not retaliatory and that discipline is consistently applied. The ERB charter states that the purpose of the ERB is "[t]o review any significant personnel action at Millstone Station prior to such action being taken to ensure that it is proper and prudent, and not the result of harassment, intimidation, discrimination or retaliation." The ERB, which is to be chaired by the Vice President, Human Services, is composed of the Director of Human Resources and Manager of Contract Administration and the Issue Manager, SCWE. Other participants in the ERB is the administrator of the Millstone Employee Concerns Oversight Panel (ECOP) and a legal representative. The ERB reviews proposed discipline more severe than a verbal warning for both NNECO employees and contractor personnel to ensure that the discipline or reduction is not caused by any protected activity. The ERB has been effective in providing critical independent review of proposed disciplinary actions and contractor reductions. These actions help ensure due process is given to individuals.

Another significant measure adopted by NNECO was the creation of a "People Team" organized under the Vice President, Human Services. The coordination of the efforts of Human Resources, the ECP, the SCWE group, the ECOP, and a Legal representative in daily meetings has provided senior levels of management with an unparalleled awareness of potential issues affecting the work environment. Known as the "0800" meeting, this early awareness has enabled the resources to be marshaled and brought to bear on these potential issues before they culminate in ill-advised disciplinary actions and chilled work groups.

In addition to the specific corrective actions described above, significant additional actions have been taken to establish and sustain a safety conscious work environment at Millstone. Central among these efforts is the visible support by senior management for the importance of maintaining a safety conscious work environment and the importance of a strong and effective ECP. As discussed above, senior management endorsed the ECP findings and acted decisively to remedy the MOV situation.

The comprehensive actions taken by NNECO to ensure the enhancement of the overall work environment are more fully described in a letter to the NRC dated March 31, 1998.⁽⁶⁾

⁽⁶⁾ NNECO letter to NRC, B17138, "Millstone Nuclear Power Station, Unit Nos. 1, 2 and 3, Establishment of a Safety Conscious Work Environment," dated March 31, 1998.

Effectiveness of Corrective Actions Taken

NNECO's corrective actions in response to the MOV event have been effective. A recent NNECO internal review examined the company's response to a number of SCWE-related events since July 1997. That review identified for each event the underlying causes, corrective action that addresses each such cause, the actions from the Work Environment section of the 1998-2000 NNECO Performance Plan that address each such cause, and any additional actions recommended to address any causal factors. One of the events reviewed was the termination of the MOV engineers. That review identified six causal factors as contributing to the MOV event:

- Supervision did not have sufficient interpersonal and management skills to effectively resolve problems raised by employees
- Supervision and management did not have sufficient sensitivity to effects of management actions on employees' willingness to raise problems; particularly in the Millstone environment
- The roles and responsibilities (NU vs. Contractor) were unclear and NU management was absent from reporting chain
- Supervision and management did not have sufficient specific knowledge of SCWE and 10 CFR 50.7 (insufficient management skills in relation to employee concerns issues)
- Overemphasis on and lack of understanding of co-employment doctrine resulted in limited (not integrated) response and ineffective resolution
- Lack of integrated, coordinated approach, and questioning attitude by Contracts, Legal, Human Resources and Recovery Officer.

Each of these causal factors has been addressed by actions NNECO took in response to the MOV event. The causal factors of supervision's management and interpersonal skills, sensitivity to the effects of management's actions, knowledge of SCWE and 10 CFR 50.7 issues and understanding of the co-employment doctrine have been addressed by the comprehensive SCWE training described above. The lack of clarity of roles and responsibilities and involvement of NU management was remedied by the replacement of contractor supervision in the MOV area with an NNECO employee. The lack of a integrated, coordinated approach and questioning attitude has been addressed by the 0800 meetings, the Executive Review Board, and comprehensive SCWE training which was attended by Contracts, Legal, Human Resources and management representatives.

An additional measure of the effectiveness of NNECO's more comprehensive actions to achieve a safety conscious work environment at Millstone is the discussion of the Key Issue of Safety Conscious Work Environment contained in the Second Quarter Performance Report submitted to the NRC.⁽⁷⁾

Actions to Prevent Further Violations

The many actions and programmatic enhancements discussed in NNECO's March 31, 1998, letter to the NRC, constitute actions which NNECO has already taken to prevent further violations. One of the key components of that submission was the "Work Environment" section of the 1998-2000 Performance Plan, which NNECO submitted as Attachment 4 to the March 31st letter. That section outlines many actions that NNECO intends to take during the next two years to continue to improve the safety conscious work environment at Millstone.

NNECO supplemented the March 31st letter on April 24, 1998,⁽⁸⁾ in which it provided the NRC with a more detailed explanation of the SCWE organizational changes, the decision making process, and the performance measures that NNECO intends to use to guide its transition from a recovery organization to an operational organization in equilibrium. The purpose of this planned transition is to ensure that the achievements earned to date are sustained in the months and years following recovery. The transition plan envisions an organization which has institutionalized the extraordinary measures marshaled to renew the SCWE at Millstone.

Date When Full Compliance Will be Achieved

NNECO has achieved full compliance with respect to the apparent violation.

⁽⁷⁾ NNECO letter to NRC, B17379, "Millstone Nuclear Power Station, Unit No. 3, Second Quarter Performance Report," dated August 11, 1998.

⁽⁸⁾ NNECO letter to NRC, B17214, "Millstone Nuclear Power Station, Units 1, 2 and 3, Supplement to the Millstone SCWE Readiness Letter of March 31, 1998," dated April 24, 1998