



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 23, 1998

EGM 98-003

MEMORANDUM TO: Hubert J. Miller, Regional Administrator
Region I
Luis A. Reyes, Regional Administrator
Region II
A. Bill Beach, Regional Administrator
Region III
Ellis W. Merschoff, Regional Administrator
Region IV
Roy Zimmerman, Associate Director for
Projects, NRR
Brian W. Sheron, Acting Associate Director for
Technical Review, NRR
Elizabeth Q. Ten Eyck, Director, Division of
Fuel Cycle Safety and Safeguards, NMSS
Donald A. Cool, Director, Division of
Industrial and Medical Nuclear Safety, NMSS
John T. Greeves, Director, Division of Waste
Management, NMSS

FROM: James Lieberman, Director
Office of Enforcement

SUBJECT: ENFORCEMENT GUIDANCE MEMORANDUM - GUIDANCE ON THE
RELEASE OF OI SYNOPSES IN DISCRIMINATION CASES

Allegation Guidance Memorandum 98-01, dated January 27, 1998, discusses the release of Office of Investigation (OI) synopses concerning investigations of discrimination to parties to Department of Labor (DOL) proceedings. The guidance states that once the Office of Enforcement (OE) has approved releasing the OI findings to the parties to the DOL hearings, the responsible region or office will prepare the transmittal letters. In the interest of consistency, OE has prepared a model letter to be sent to licensees, contractors or vendors when OI investigations have either substantiated or not substantiated discrimination allegations and there are pending DOL proceedings on similar matters. Copies of the synopses of the OI reports are made available to the parties in the DOL proceedings and these parties are informed that the complete report may be requested under the Freedom of Information Act. A separate letter

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V-L-4 PT4

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Multiple Addressees

need not be sent to the individual subject to the alleged discrimination since that person is copied on the licensee, contractor, or vendor letter.

Attachment: As stated

cc: L. Callan, EDO
H. Thompson, DEDR
A. Thadani, DEDE
S. Collins, NRR
J. Goldberg, OGC
F. Gillespie, NRR
B. Boger, NRR
E. Adensam, NRR
The Chairman
The Commissioners
SECY

[Date]

[Licensee/Contractor/vendor]

[Address]

SUBJECT: DEPARTMENT OF LABOR (DOL) CASE NO. [X] -
([Name] v. [Licensee/ contractor/ Vendor])

Dear [Name]:

On [Date], the NRC's Office of Investigation (OI) initiated an investigation to determine if [Name(s)] was subject to [Adverse Action] for [Protected Activity]. The OI investigation, documented in OI Report No. [X], was completed on [Date]. OI concluded that there was [was not] sufficient evidence developed during the investigation to substantiate discrimination.

On [Date], the U.S. Department of Labor's (DOL) OSHA Division in [Location] received a complaint on a similar matter filed by [Name(s)], a former employee(s) of [Licensee/Contractor/vendor name(s)]. On [Date], the Assistant Area Director issued a decision in this case and concluded that [Conclusion]. [Licensee/contractor/vendor or complainant] subsequently appealed the decision and action is pending before a DOL Administrative Law Judge. [If the strategy is to hold NRC's Enforcement Decision] The staff will hold its judgement on whether or not enforcement action is warranted in this matter until after an adjudicatory decision by a DOL ALJ. [If the strategy is to go forward with a possible enforcement action] The staff is considering this matter for enforcement, which will be the subject of separate correspondence.

We are providing the parties involved in the DOL hearing the results of the OI investigation. A copy of the synopsis of the OI report is enclosed. You should note that final NRC documents, including the final OI report, may be made available to the public under the Freedom of Information Act (FOIA) subject to redaction of information provided under FOIA. Requests under the FOIA should be made in accordance with 10 CFR 9.23, Requests for Records.

Should you have any questions regarding this letter, please feel free to contact me at [Phone Number].

Sincerely,

[Name]
Enforcement and Investigations
Coordination Staff

Enclosure: Synopsis of OI Report No. [X]

cc w/encl: [Individual's Name]
[Individual's Attorney, if known]

Distribution w/o encl:

J. Lieberman, OE

J. Goldberg, OGC

[Regional Counsel], R [X]

B. Summers, OE

Distribution w/ encl:

R [X] DOL File

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March 23, 1998

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DISTRIBUTION:

JLieberman, OE

OE Staff

Enforcement Coordinators

RI, RII, RIII, RIV, NMSS

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E MAIL TO coordinators

copy to

Belor

PDR	NUDOCS	OE <i>M.S.</i>	D:OE <i>JL</i>
YES	<u>YES</u>	MStein	JLieberman
NO	NO	3/19/98	3/21/98

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