

Responsible Branch: PSB2

Concern 1

OI Action: No

OI Report:

The Employee Concerns Program at the Callaway Plant does not adequately address the concerns brought to it by plant employees. The Employee Concerns Program at Callaway Plant functions to "protect" the company from allegation[s] by serving merely as a vehicle to gather information to dispute the allegor's claims. Evidence contrary to the company's position is either not pursued or, if incidentally obtained, is ignored.

Action	Branch	Assigned	Planned	Completed
1 Acknowledgement Letter	ACES	2/24/2009	3/26/2009	3/24/2009
2 Initial ARB Meeting		2/24/2009	3/26/2009	3/19/2009
3 Summary	ACES			7/24/2009
Callaway Plants employee concerns program investigations not adequate				
4 OIG Memo/Call	ACES	3/19/2009	3/30/2009	3/26/2009
Forward 03/01/09email to IG with discussion of regional effort to disposition technical issues.				
5 Staff Review	ACES			4/6/2009
Email to Lisamarie Jarriel from WJones				
6 Phone Call w/Alleger	ACES			4/6/2009
WJones				
7 Phone Call w/Alleger	ACES			4/3/2009
Phone call from allegor - CI requests correspondence via internet/email				
8 ARB Meeting	ACES	4/13/2009	4/28/2009	5/18/2009
9 Staff Review	PSB2	4/13/2009	4/27/2009	5/15/2009
PSB2 w/assistance from RPBB and OB to review all prior records and develop closure or RFI				
10 Staff Review	PSB2	5/19/2009	6/9/2009	6/4/2009
Based on PSB2 review of existing files. Cancel RFI - PSB2 to review OI report for Example 1 and provide documentation of PI&R inspection results.				
Example 3 and 4 will not be reviewed because of mediation				
11 Staff Review	RPBB	5/19/2009	6/9/2009	7/20/2009
RI to review ECP file for Example 2 for technical adequacy and provide input to PSB2				
12 Closure Letter	ACES	6/15/2009		7/24/2009
13 ARB Meeting	ACES			7/20/2009
Prior results discussed with ARB members and Final ECP file review actions made.				
14 Final QA Review	ACES			2/11/2010

Branch Evaluation, Plan & Recommendation

Allegation Number: RIV-2009-A-0037

Facility Name: Callaway Plant

Docket/License No: 05000483

Responsible Div: DRS

ARB Date: 7/20/09

Overall Responsible Branch: PSB2

(As assigned by the ARB)

<u>Received Date</u>	<u>30 Days</u>	<u>70 Days</u>	<u>90 Days</u>	<u>120 Days</u>
2/24/2009	3/26/2009	5/5/2009	5/25/2009	6/24/2009

Purpose of this ARB: Reconsider concern followup

Basis for a Subsequent ARB:

Does the Allegor **OBJECT** to the NRC requesting that the licensee formally assess/evaluate the concern(s)?

Yes

X

No

N/A

If any of the following factors apply, this allegation shall not be submitted to the licensee for investigation or review.

Information cannot be released in sufficient detail to the licensee without compromising the identity of the allegor or confidential source.

The licensee could compromise an investigation or inspection because of knowledge gained from the discussions.

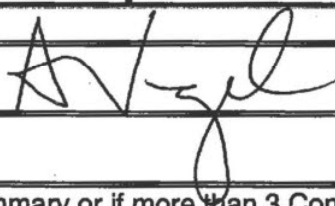
The allegation is made against the licensee's management or those parties who would normally receive and address the allegation.

The basis of the allegation is information received from a Federal or State agency that does not approve of the information being released.

ARB PARTICIPANTS

Chairman: TVegel	TPruett	WJones	CHolland
LCarson	VGaddy	RDeese	HFreeman
BBaca	KFuller		

Chairman Approval:



Date:

7/20/09

Overall Allegation Summary or if more than 3 Concerns, keywords, topics, subject, etc.: Provide a summary or selected keywords/topics/subject for the whole allegation's contents below. The AMS field is only 250 characters. ***See the BEPR Desktop Guide for assistance.

CI states that the ECP does not adequately address concerns and only functions to protect the company. The CI provided 4 examples of issues that were already known by the NRC (provided under other allegation files).

Branch Evaluation, Plan & Recommendation

Allegation Number: RIV-2009-A-0037

Concern: 1.

*RX Code/Functional Area: No Dept. Specified

Responsible Branch: PSB2

*Discipline: Employee Concerns Pgm

*OI Investigation Priority:

OI Case Number:

4-20XX-0XX

*OI Priority Basis:

Concern: (A concern is one or two sentences.)

The Employee Concerns Program at the Callaway nuclear plant does not adequately address the concerns brought to it by plant employees. The ECP at Callaway Plant functions to "protect" the company from allegation[s] by serving merely as a vehicle to gather information to dispute the alleged's claims. Evidence contrary to the company's position is either not pursued or, if incidentally obtained, is ignored.

Concern Background, Supporting Information, & Comments:

The four examples provided by the CI were issues already known to the NRC. Examples 1 and 2 involved an alleged inattentive Shift Manager which has been extensively investigated by OI and determined to be unsubstantiated. Previously, the former ECP manager had advised the former Senior Allegation Coordinator of this issue and advised that he had essentially substantiated the issue based upon interviews; however, when OI interviewed those same individuals under oath and accompanied by the company attorney, they would not substantiate that they had actually seen the (b)(7)(C) sleeping or being inattentive.

Examples 3 & 4 involved the CI's claims of alleged retaliation for having raised safety concerns. These issues were addressed under Allegation RIV-2007-A-0093 and were settled (outside of ADR). The NRC accepted the settlement agreement in lieu of conducting an OI investigation. While the CI stated that he was never provided the results of the investigation, this may have been appropriate since the licensee was in negotiations with the CI and his attorney. Note: The agreement signed by the CI stipulates that the CI agrees to drop any further pursuit of his discrimination complaints.

The most recent PI&R Inspection, completed in March 2008, found that the licensee had established a safety-conscious work-environment. Most (but not all) individuals indicated that they would use the ECP if they did not get satisfaction using the CAP but two individuals indicated that they did not trust the ECP. The next PI&R is scheduled for October 2010.

Regulatory Requirement:

None.

*Safety Significance:

HIGH

X

Normal

N/A

Basis: Describe the concern's safety significance below (current, on going issue; level of individual(s) involved; etc.)

Not a current issue. The last PI&R indicated an acceptable perception by employees of the ECP.

Check each question as applicable to this concern.

X

Is it a declaration, statement, or assertion of impropriety or inadequacy? Is there a potential deficiency?

X

Is the impropriety or inadequacy associated with NRC regulated activities? Is it a potential NRC violation(s)? **NO**

X

Is the validity of the issue unknown?

If all of the above statements are checked, the issue is an allegation.

Technical Staff Recommendation(s)

Date	*Recommended Action	Assigned Branch	Planned Date
3/2/09	Request the licensee investigate and provide a response for review..	ACES	

Branch Evaluation, Plan & Recommendation

Allegation Number: RIV-2009-A-0037

Concern: 1.

3/2/09	Review licensee's ECP files to determine adequacy of licensee's response.	RPBB	
5/19/09	RFI asking the licensee to perform an independent review of the four case files.	ACES	
7/20/09	Consider comments from OE ADR counsel for items 3 and 4 e-mail dated 7/17/09. Review ECP files and discuss with ECP manager the specifics of the concern, i.e. basis for interviews conducted, extent of reviews and whether feedback provided to CI.	ACES/RPBB	7/21/09

NOTE: Attach Draft NOV, RFI questions/requests, and/or an inspection plan as a separate document.

ARB Date	ARB Decision(s)	Assigned to	Accepted Planned Date
03/19/09	Forward 03/01/09 email to IG with discussion of regional effort to disposition technical issues.	ACES	03/30/09
03/19/09	RFI	ACES	03/30/09
03/19/09	Review licensee response	PSB2	
03/19/09	Review ECP records onsite	PSB2	
4/13/09	PSB2 w/assistance from RPBB and OB to review all prior records and develop closure or RFI	PSB2	4/27/09
4/13/09	RE ARB	ACES	
5/19/09	Based on PSB2 review of existing files. Cancel RFI - PSB2 to review OI report for Example 1, and provide documentation of PI&R inspection results	PSB2	
5/19/09	RI to review ECP file for Example 2 for technical adequacy and provide input to PSB2	RPBB	
5/19/09	Example 3 and 4 will not be reviewed because of mediation		
07/20/09	Review ECP files and discuss with ECP manager the specifics of the concern: (Example 3) How was feedback provided to CI; and (Example 4) How were the results provided to the CI with regard to the case, what was the licensee's process for mediation.	RPBB	7/21/09

Branch Evaluation, Plan & Recommendation

Allegation Number: RIV-2009-A-0037

Facility Name: Callaway Plant	Docket/License No: 05000483
Responsible Div: DRS	ARB Date: 5/19/09
Overall Responsible Branch: PSB2	(As assigned by the ARB)

<u>Received Date</u>	<u>30 Days</u>	<u>70 Days</u>	<u>90 Days</u>	<u>120 Days</u>
2/24/2009	3/26/2009	5/5/2009	5/25/2009	6/24/2009

Purpose of this ARB: Discuss review all prior records and RFI questions

Basis for a Subsequent ARB:

Does the Allegor OBJECT to the NRC requesting that the licensee formally assess/evaluate the concern(s)?		Yes	X	No		N/A
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If any of the following factors apply, this allegation shall not be submitted to the licensee for investigation or review.

- | | |
|--------------------------|--|
| <input type="checkbox"/> | Information cannot be released in sufficient detail to the licensee without compromising the identity of the allegor or confidential source. |
| <input type="checkbox"/> | The licensee could compromise an investigation or inspection because of knowledge gained from the discussions. |
| <input type="checkbox"/> | The allegation is made against the licensee's management or those parties who would normally receive and address the allegation. |
| <input type="checkbox"/> | The basis of the allegation is information received from a Federal or State agency that does not approve of the information being released. |

ARB PARTICIPANTS

Chairman: DDChamberlain	(b)(7)(C)	TPruett	JWalker
BBaca	TMcKernon	HFreeman	KFuller
MHay	JBraisted	ERuesch	WJones
VGaddy			

Chairman Approval:

Dwight D. Chamberlain

Date: 5/19/2009

Overall Allegation Summary or if more than 3 Concerns, keywords, topics, subject, etc.: Provide a summary or selected keywords/topics/subject for the whole allegation's contents below. The AMS field is only 250 characters. ***See the BEPR Desktop Guide for assistance.

CI states that the ECP does not adequately address concerns and only functions to protect the company. The CI provided 4 examples of issues that were already known by the NRC (provided under other allegation files).

Branch Evaluation, Plan & Recommendation

Allegation Number: RIV-2009-A-0037

Concern: 1.

Responsible Branch: PSB2

*RX Code/Functional Area: No Dept. Specified

*Discipline: Employee Concerns Pgm

*OI Investigation Priority:

OI Case Number:

4-20XX-0XX

*OI Priority Basis:

Concern: (A concern is one or two sentences.)

The Employee Concerns Program at the Callaway nuclear plant does not adequately address the concerns brought to it by plant employees. The ECP at Callaway Plant functions to "protect" the company from allegation[s] by serving merely as a vehicle to gather information to dispute the alleged's claims. Evidence contrary to the company's position is either not pursued or, if incidentally obtained, is ignored.

Concern Background, Supporting Information, & Comments:

The four examples provided by the CI were issues already known to the NRC. Examples 1 and 2 involved an alleged inattentive (b)(7)(C) which has been extensively investigated by OI and determined to be unsubstantiated. Previously, the former ECP manager had advised the former Senior Allegation Coordinator of this issue and advised that he had essentially substantiated the issue based upon interviews; however, when OI interviewed those same individuals under oath and accompanied by the company attorney, they would not substantiate that they had actually seen the (b)(7)(C) sleeping or being inattentive.

Examples 3 & 4 involved the CI's claims of alleged retaliation for having raised safety concerns. These issues were addressed under Allegation RIV-2007-A-0093 and were settled (outside of ADR). The NRC accepted the settlement agreement in lieu of conducting an OI investigation. While the CI stated that he was never provided the results of the investigation, this may have been appropriate since the licensee was in negotiations with the CI and his attorney. Note: The agreement signed by the CI stipulates that the CI agrees to drop any further pursuit of his discrimination complaints.

The most recent PI&R Inspection, completed in March 2008, found that the licensee had established a safety-conscious work-environment. Most (but not all) individuals indicated that they would use the ECP if they did not get satisfaction using the CAP but two individuals indicated that they did not trust the ECP. The next PI&R is scheduled for October 2010.

Regulatory Requirement:
None.

*Safety Significance:

HIGH

X

Normal

N/A

Basis: Describe the concern's safety significance below (current, on going issue; level of individual(s) involved; etc.)

Not a current issue. The last PI&R indicated an acceptable perception by employees of the ECP.

Check each question as applicable to this concern.

X

Is it a declaration, statement, or assertion of impropriety or inadequacy? Is there a potential deficiency?

X

Is the impropriety or inadequacy associated with NRC regulated activities? Is it a potential NRC violation(s)? **NO**

X

Is the validity of the issue unknown?

If all of the above statements are checked, the issue is an allegation.

Technical Staff Recommendation(s)

Date	*Recommended Action	Assigned Branch	Planned Date
3/2/09	Request the licensee investigate and provide a response for review.	ACES	

Branch Evaluation, Plan & Recommendation

Allegation Number: RIV-2009-A-0037

Concern: 1.

3/2/09	Review licensee's ECP files to determine adequacy of licensee's response.	RPBB	
5/19/09	RFI asking the licensee to perform an independent review of the four case files.	ACES	

NOTE: Attach Draft NOV, RFI questions/requests, and/or an inspection plan as a separate document.

ARB Date	ARB Decision(s)	Assigned to	Accepted Planned Date
03/19/09	Forward 03/01/09 email to IG with discussion of regional effort to disposition technical issues.	ACES	03/30/09
03/19/09	RFI	ACES	03/30/09
03/19/09	Review licensee response	PSB2	
03/19/09	Review ECP records onsite	PSB2	
4/13/09	PSB2 w/assistance from RPBB and OB to review all prior records and develop closure or RFI	PSB2	4/27/09
4/13/09	RE ARB	ACES	
5/19/09	Based on PSB2 review of existing files. Cancel RFI - PSB2 to review OI report for Example 1, and provide documentation of PI&R inspection results	PSB2	
	RI to review ECP file for Example 2 for technical adequacy and provide input to PSB2	PBB	
	Example 3 and 4 will not be reviewed because of mediation		

Lynn Berger

From: Harry Freeman
Sent: Thursday, May 14, 2009 1:18 PM
To: R4ALLEGATION Resource
Cc: Bernadette Baca; Judith Walker; Lynn Berger
Subject: FW: Allegation RIV-2009-A-0037
Attachments: 09037 RFI.doc

This is a modified resend of information provided earlier. Please place it on the ARB agenda for next week.

From: Harry Freeman
Sent: Monday, April 20, 2009 2:10 PM
To: James Drake
Subject: Allegation RIV-2009-A-0037

Jim,

As the acting branch chief for PSB2, I am sending you this assessment of the assignment.

The concern itself involves the assertion that the ECP at the Callaway Plant does not adequately address the concerns brought to it by plant employees but functions to "protect" the company from allegations by serving merely as a vehicle to gather information to dispute the alleged's claims. The alleged then provides four examples that he believes support his assertion. Finally, the alleged requests that the NRC review the four files to determine if there is a pattern of skewing internal investigation in favor of the company's position.

While the ECP is not required by NRC regulations, I recommend provided a "Request For Information" that would ask the licensee to have an independent review conducted of the four ECP case files. The April 13, 2009, ARB directed PSB2 with assistance from RPBB and OB to review all prior records and develop closure or RFI because it was believed that we already had adequate information regarding this issue.

I checked with RPBB and OB and determined that they did not have any information regarding how ECP handled these four cases. I also checked with OI and determined that OI did have the ECP records for Example 1 (inattentive SRO) as an exhibit to one of their investigations. OI also had performed some followup related to Example 2 (failure to address inattentive SRO) but did not have any copies of the ECP files.

Since the NRC only has the case file for one example, I would again recommend that we ask the licensee to perform an independent assessment of the four case files. Attached is a copy of the RFI I had previously developed. I also highly recommend against the NRC performing any direct followup for Examples 3 & 4. These examples are associated with the alleged's claim of employment discrimination that the NRC accepted the settlement in lieu of an investigation.

Please review this assessment and if you agree, forward on to ACES. This information needs to be provided to ACES by noon on Wednesday.

Harry Freeman
Senior Reactor Inspector
817-860-8239



Concern

The Employee Concerns Program at the Callaway nuclear plant does not adequately address the concerns brought to it by plant employees. The ECP at Callaway Plant functions to "protect" the company from allegation(s) by serving merely as a vehicle to gather information to dispute the individual's claims. Evidence contrary to the company's position is either not pursued or, if incidentally obtained, is ignored.

Request for information

Specifically, the NRC requests that an individual trained in investigations/auditing techniques, who is independent of the Employee Concerns Program and of the original investigations, review the following four issues to determine whether they were adequately investigated:

1. A 2005 investigation of an issue that a specific (b)(7)(C) was "inattentive" while standing watch in the reactor plant Control Room.
2. An early 2006 investigation regarding a concern that the Operations Department did not adequately address the concerns of the inattentive (b)(7)(C) described in Issue 1.
3. An August 2006 investigation into a concern that an individual's Senior Reactor Operator license had been removed in retaliation for addressing nuclear safety and commercial concerns in the Corrective Action Program.
4. May 2007 investigation(s) initiated in response to issues raised by a former Senior Reactor Operator (same individual in Issue 3) to his 2006 Performance Appraisal comments.

For each case, the reviewer should determine whether:

- (a) the investigation was thorough,
- (b) all credible leads were followed in determination of the validity of the concerns,
- (c) all appropriate individuals were interviewed,
- (d) the conclusion(s) are supported by the documentation,
- (e) the individual who raised the concern(s) received appropriate feedback, and
- (f) any identified deficiency was appropriately dispositioned.

Branch Evaluation, Plan & Recommendation

Allegation Number: RIV-2009-A-0037

Facility Name: Callaway Plant	Docket/License No: 05000483
Responsible Div: DRP	ARB Date: 4/13/09
Overall Responsible Branch: RPBB (As assigned by the ARB)	

<u>Received Date</u>	<u>30 Days</u>	<u>70 Days</u>	<u>90 Days</u>	<u>120 Days</u>
2/24/2009	3/26/2009	5/5/2009	5/25/2009	6/24/2009

Purpose of this ARB: Determine processing

Basis for a Subsequent ARB:

Does the Allegor OBJECT to the NRC requesting that the licensee formally assess/evaluate the concern(s)?		Yes	X	No		N/A
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If any of the following factors apply, this allegation shall not be submitted to the licensee for investigation or review.

- | | |
|--------------------------|--|
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| <input type="checkbox"/> | The licensee could compromise an investigation or inspection because of knowledge gained from the discussions. |
| <input type="checkbox"/> | The allegation is made against the licensee's management or those parties who would normally receive and address the allegation. |
| <input type="checkbox"/> | The basis of the allegation is information received from a Federal or State agency that does not approve of the information being released. |

ARB PARTICIPANTS

Chairman: TVegel	WJones	GWerner	RDeese
CHolland	KFuller	VGaddy	

Chairman Approval: 

Date: 4/13/09

Overall Allegation Summary or if more than 3 Concerns, keywords, topics, subject, etc.: Provide a summary or selected keywords/topics/subject for the whole allegation's contents below. The AMS field is only 250 characters. ***See the BEPR Desktop Guide for assistance.

CI states that the ECP does not adequately address concerns and only functions to protect the company. The CI provided 4 examples of issues that were already known by the NRC (provided under other allegation files).

Branch Evaluation, Plan & Recommendation

Allegation Number: RIV-2009-A-0037

Concern: 1.

Responsible Branch: RPBB

*RX Code/Functional Area: No Dept. Specified

*Discipline: Employee Concerns Pgm

*OI Investigation Priority:

OI Case Number:

4-20XX-0XX

*OI Priority Basis:

Concern: (A concern is one or two sentences.)

The Employee Concerns Program at the Callaway nuclear plant does not adequately address the concerns brought to it by plant employees. The ECP at Callaway Plant functions to "protect" the company from allegation[s] by serving merely as a vehicle to gather information to dispute the alleged's claims. Evidence contrary to the company's position is either not pursued or, if incidentally obtained, is ignored.

Concern Background, Supporting Information, & Comments:

The four examples provided by the CI were issues already known to the NRC. Examples 1 and 2 involved an alleged inattentive (b)(7)(C) which has been extensively investigated by OI and determined to be unsubstantiated. Previously, the former ECP manager had advised the former Senior Allegation Coordinator of this issue and advised that he had essentially substantiated the issue based upon interviews; however, when OI interviewed those same individuals under oath and accompanied by the company attorney, they would not substantiate that they had actually seen the (b)(7)(C) sleeping or being inattentive.

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The most recent PI&R Inspection, completed in March 2008, found that the licensee had established a safety-conscious work-environment. Most (but not all) individuals indicated that they would use the ECP if they did not get satisfaction using the CAP but two individuals indicated that they did not trust the ECP. The next PI&R is scheduled for October 2010.

Regulatory Requirement:
None.

*Safety Significance:

HIGH

X

Normal

N/A

Basis: Describe the concern's safety significance below (current, on going issue; level of individual(s) involved; etc.)

Not a current issue. The last PI&R indicated an acceptable perception by employees of the ECP.

Check each question as applicable to this concern.

X

Is it a declaration, statement, or assertion of impropriety or inadequacy? Is there a potential deficiency?

X

Is the impropriety or inadequacy associated with NRC regulated activities? Is it a potential NRC violation(s)? **NO**

X

Is the validity of the issue unknown?

If all of the above statements are checked, the issue is an allegation.

Technical Staff Recommendation(s)

Date	*Recommended Action	Assigned Branch	Planned Date
3/2/09	Request the licensee investigate and provide a response for review.	ACES	

Branch Evaluation, Plan & Recommendation

Allegation Number: RIV-2009-A-0037

Concern: 1.

3/2/09 Review licensee's ECP files to determine adequacy of licensee's response.

RPBB

NOTE: Attach Draft NOV, RFI questions/requests, and/or an Inspection plan as a separate document.

ARB Date	ARB Decision(s)	Assigned to	Accepted Planned Date
03/19/09	Forward 03/01/09 email to IG with discussion of regional effort to disposition technical issues.	ACES	03/30/09
03/19/09	RFI	ACES	03/30/09
03/19/09	Review licensee response	PSB2	
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4/13/09	PSB2 w/assistance from RPBB and OB to review all prior records and develop closure or RFI	PSB2	4/27/09
4/13/09	RE ARB	ACES	

Branch Evaluation, Plan & Recommendation

Allegation Number: RIV-2009-A-0037

Facility Name: Callaway Plant	Docket/License No: 05000483
Responsible Div: DRP	ARB Date: 3/19/2009
Overall Responsible Branch: RPBB	(As assigned by the ARB)

<u>Received Date</u>	<u>30 Days</u>	<u>70 Days</u>	<u>90 Days</u>	<u>120 Days</u>
2/24/2009	3/26/2009	5/5/2009	5/25/2009	6/24/2009

Purpose of this ARB: Initial ARB

Basis for a Subsequent ARB:

Does the Allegor **OBJECT** to the NRC requesting that the licensee formally assess/evaluate the concern(s)?

Yes

X

No

N/A

If any of the following factors apply, this allegation shall not be submitted to the licensee for investigation or review.

☐ Information cannot be released in sufficient detail to the licensee without compromising the identity of the allegor or confidential source.

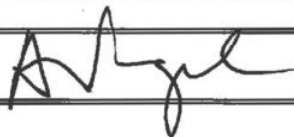
☐ The licensee could compromise an investigation or inspection because of knowledge gained from the discussions.

☐ The allegation is made against the licensee's management or those parties who would normally receive and address the allegation.

☐ The basis of the allegation is information received from a Federal or State agency that does not approve of the information being released.
ARB PARTICIPANTS

Chairman: TVegel	WJones	TPruett	KFuller
VGaddy	GWerner	CHolland	BBaca
BStapleton			

Chairman Approval:



Date: 3/29/09

Overall Allegation Summary or if more than 3 Concerns, keywords, topics, subject, etc.: Provide a summary or selected keywords/topics/subject for the whole allegation's contents below. The AMS field is only 250 characters. ***See the BEPR Desktop Guide for assistance.

CI states that the ECP does not adequately address concerns and only functions to protect the company. The CI provided 4 examples of issues that were already known by the NRC (provided under other allegation files).

Branch Evaluation, Plan & Recommendation

Allegation Number: RIV-2009-A-0037

Concern: 1.

Responsible Branch: RPBB

*RX Code/Functional Area: No Dept. Specified

*Discipline: Employee Concerns Pgm

*OI Investigation Priority:

OI Case Number:

4-20XX-0XX

*OI Priority Basis:

Concern: (A concern is one or two sentences.)

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Concern Background, Supporting Information, & Comments:

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The most recent PI&R Inspection, completed in March 2008, found that the licensee had established a safety-conscious work-environment. Most (but not all) individuals indicated that they would use the ECP if they did not get satisfaction using the CAP but two individuals indicated that they did not trust the ECP. The next PI&R is scheduled for October 2010.

Regulatory Requirement:

None.

*Safety Significance:		HIGH	X	Normal		N/A	
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Basis: Describe the concern's safety significance below (current, on going issue; level of individual(s) involved; etc.)

Not a current issue. The last PI&R indicated an acceptable perception by employees of the ECP.

Check each question as applicable to this concern.

- | | |
|---|--|
| X | Is it a declaration, statement, or assertion of impropriety or inadequacy? Is there a potential deficiency? |
| X | Is the impropriety or inadequacy associated with NRC regulated activities? Is it a potential NRC violation(s)? NO |
| X | Is the validity of the issue unknown? |

If all of the above statements are checked, the issue is an allegation.

Technical Staff Recommendation(s)

Date	*Recommended Action	Assigned Branch	Planned Date
3/2/09	Request the licensee investigate and provide a response for review.	ACES	

Branch Evaluation, Plan & Recommendation

Allegation Number: RIV-2009-A-0037

Concern: 1.

3/2/09	Review licensee's ECP files to determine adequacy of licensee's response.	RPBB	
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NOTE: Attach Draft NOV, RFI questions/requests, and/or an inspection plan as a separate document.

ARB Date	ARB Decision(s)	Assigned to	Accepted Planned Date
03/19/09	Forward 03/01/09 email to IG with discussion of regional effort to disposition technical issues.	ACES	03/30/09
03/19/09	RFI	ACES	03/30/09
03/19/09	Review licensee response	PSB2	
03/19/09	Review ECP records onsite	PSB2	

From: [REDACTED]
To: william.jones@nrc.gov
CC: llj@nrc.gov; amy.powell@nrc.gov; marty.gelfand@mail.house.gov; bill_houlihan@durbin.senate.gov;
liona_weiss@mccaskill.senate.gov; jmo4rep@juno.com; jeanette.oxford@house.mo.gov; katz@kmblegal.com;
vgg@nrc.gov; rjc1@nrc.gov; allegation@nrc.gov; r4allegation.resource@nrc.gov; r4allegation@nrc.gov
Subject: FW: NRC policy allows Nuclear Industry to "buy off" whistleblowers
Date: Sun, 1 Mar 2009 12:51:12 -0500

Mr. Jones,

The email trail below provides much of the background for the allegation I wish to make to you. There are also two documents attached to this email which provide additional background information.

During our December 5, 2008 conference call you re-iterated to me that it was US NRC policy not to investigate retaliation complaints which were either settled through the formal ADR process or were privately mediated in a similar process. During that conference call I requested that I be provided the US NRC policy which prohibits Region IV from investigating my retaliation complaint (RIV-2007-A-0093). I never received feedback on whom to contact to obtain a copy of that policy.

I am writing this email to allege the following:

1. My settlement with Ameren corporation reached through private mediation has NOT affected the Safety Culture at Callaway Plant. Specifically, the individual whom I claimed discriminated against me (Dave Neterer) has since been **promoted from Operations Manager to Plant Director**. The promotion of Mr. Neterer is validation to me that Ameren does not believe Dave Neterer engaged in unlawful retaliatory practices against me for addressing safety concerns. Since Ameren does not recognize that unlawful retaliatory practices occurred, Ameren is not able to make the changes to its management practices to prevent similar occurrences in the future.
2. On a personal level, the individual (Dave Neterer) who retaliated against me has not suffered any punishment for his actions. The settlement paid to me was not paid personally by Mr. Neterer; the settlement was paid by Ameren corporation. Since Ameren corporation is just a paper entity, my settlement was actually paid by either the rate payers or share holders of Ameren (I would like to know which group ultimately had the cost of my settlement passed onto them). Since Mr. Neterer did not have to financially contribute to my settlement and since he has been financially rewarded with a promotion since my settlement was reached, I do not believe that Mr. Neterer has any incentive to change his retaliatory management practices.
3. The US NRC's practice of not investigating retaliation complaints which were settled through private mediation results in the better documented allegations not being investigated. By not investigating the better documented allegations, the results of the Allegation Process become skewed in favor of the utility's Safety Culture.
4. Utilities are more likely to agree to acceptable settlements with individuals who have well documented retaliation complaints (I would like the US NRC to either acknowledge this statement or provide evidence to refute it).
5. The practice of not investigating complaints for which a settlement was reached results in the US NRC not investigating the better documented complaints (I would like the US NRC to either acknowledge this statement or provide evidence to refute it).
6. By not investigating the better documented complaints, the results of the US NRC's Allegation Process are skewed in the sense that a higher percentage of retaliation complaints are "not substantiated" than would occur if the better documented complaints were included (I would like the US NRC to either acknowledge this statement or provide evidence to refute it).
7. Since an inaccurately high percentage of retaliation complaints are "not substantiated", problems with the utility's Safety Culture are not accurately portrayed (I would like the US NRC to either acknowledge this statement or provide evidence to refute it).
8. The US NRC has a practice of assessing a utility's Safety Culture through "on-site" interviews with the utility's staff. Although the majority of the utility's staff are willing to document safety concerns, the mere documentation of a safety concern via a condition report is very different from being willing to forcefully challenge plant management when a safety concern is not being appropriately addressed. Just because a large percentage of workers feel comfortable writing condition reports does not mean that individuals who inconveniently challenge their management's response to safety concerns are not discriminated against. The "on-site" interviews conducted by the US NRC merely assess the average worker's willingness to "pose the question" not to aggressively "pursue the answer". Even if employees are asked about "pursuing the answer", unless they have done it, their response is meaningless.

9. Most employees who answered Safety Conscious Work Environment survey have actually never directly challenged plant management on a safety concern which they believe was inappropriately addressed and needed to be re-opened. If the US NRC cannot assess the validity of this statement then it needs to ensure utility's SCWE surveys ask the necessary questions to specifically determine how deeply involved the individual answering the survey questions has been in the Corrective Action Program (i.e. has the individual merely written condition reports or has the individual had to meet with the plant's upper management to address condition reports which were not adequately investigated).
10. The settlement agreement I signed with Ameren specifically states that I did not have to withdraw any allegation which I had made to the US NRC. There is no policy which prevents Allegation RIV-2007-A-0093 from being investigated. If desired, the US NRC could legally investigate Allegation RIV-2007-A-0093 despite the fact that I signed a settlement agreement with Ameren.

I do not wish for any of the above concerns to be investigated by the licensee.

I do not require that the US NRC keep my identity confidential.

It is acceptable to me that the US NRC share this allegation and any results from it with the staff of any state or federal elected official who inquires about it and specifically with the personnel copied on this email (if any of them so request).

I do not want item 10 investigated by Region IV. I do not know enough about the structure of the US NRC to state whom should investigate item 10. If there is an office of the Inspector General which specifically investigates the operation of the US NRC, then I would like to be provided a contact with someone in that office. Any advice as to whom I should forward item 10 to would be appreciated.

Thank you for your assistance,

From: lsciscione@hotmail.com
To: dundon@kmblegal.com
CC: banks@kmblegal.com; katz@kmblegal.com
Subject: FW: NRC policy allows Nuclear Industry to "buy off" whistleblowers
Date: Wed, 17 Sep 2008 18:11:39 -0400

Hi Maura,

It was good talking to you today. Immediately below is an email I sent to Marty Gelfand on Friday, after I met with him. When I spoke to Dennis Kucinich's office, I specifically told them I needed to meet with a lawyer. Although Marty is Dennis' lawyer and not my own, I only showed him my agreement for the purpose of obtaining legal advice. Specifically, I had written a letter to Dennis Kucinich (attached to this email) which I wanted Marty to review first, to ensure it did not violate my settlement agreement. Marty's opinion (which he qualified was "not legal advice" since he is not my attorney) was that my letter did not violate my settlement agreement.

On December 12, 2007 I had a lengthy phone conversation with Harry Freeman regarding the dropping of my discrimination complaint. The December 12 email to Bill Houlihan (included in the trail below) was written after that phone conversation. Bill Houlihan works for Senator Dick Durbin. rjc1 is Roy Caniano and vgg is Vince Gaddy, both of Region IV of the NRC. Harry Freeman is r4allegation. I told you on the phone today that Harry Freeman informed me over the phone that my retaliation complaint was not going to be investigated. Actually, I did receive this notification in writing - I cannot find it here in Akron though. If you would like a copy, let me know and I will send you one when I next return to Illinois.

As I state in the last line of my email to Bill Houlihan, I believe the NRC's policy of not investigating complaints which are financially settled in the Accelerated Dispute Resolution (ADR) process is allowing companies like Ameren to continue retaliatory practices unabated. I am happy with the representation which KMB Legal provided me last autumn. When I signed my agreement last November, I believe Ameren knew the NRC would not be investigating my complaint. I believe that Ameren's intention in settling with me was essentially to "buy" its way out of a NRC investigation. I did not recognize

this at the time, and I do not fault KM legal for not recognizing this. At the time, I believed I was only being "bought" out of my Department of Labor complaint.

I hope everything is going well for you guys.

From: [REDACTED]
To: marty.gelfand@mail.house.gov
Subject: NRC policy allows Nuclear Industry to "buy off" whistleblowers
Date: Fri, 12 Sep 2008 15:16:26 -0400

Marty,

Thank you for meeting with me today. Below is an email trail regarding the Nuclear Regulatory Commission's refusal to investigate my allegation that I was discriminated against at the Callaway nuclear plant for attempting to address safety concerns.

The issue is summarized in the December 12, 2007 email to Bill Houlihan. Also in the trail below is the contact information for (b)(7)(C) and (b)(7)(C) who are the other individuals I know of who received settlements from Ameren.

From: [REDACTED]
To: bill_houlihan@durbin.senate.gov
Subject: RE: Safety Conscious Work Environment at the Callaway Nuclear Plant
Date: Thu, 6 Mar 2008 17:00:10 -0500

Thanks for the update.

Subject: RE: Safety Conscious Work Environment at the Callaway Nuclear Plant
Date: Thu, 6 Mar 2008 11:17:32 -0500
From: Bill_Houlihan@durbin.senate.gov
To: [REDACTED]

He has not signed off yet I'm hoping to talk with the Senator this weekend.

Thanks - BILL

From: [REDACTED]
Sent: Wednesday, March 05, 2008 4:58 PM
To: Houlihan, Bill (Durbin)
Subject: FW: Safety Conscious Work Environment at the Callaway Nuclear Plant

Mr. Houlihan,

What was Senator Durbin's decision regarding my request that he ask the Nuclear Regulatory Commission to investigate my retaliation complaint?

[REDACTED]

If you send me something needing my attention, please call me at (573) 230-3959 and leave me a message to check my account.

From: [REDACTED]
To: bill_houlihan@durbin.senate.gov
CC: r4allegation@nrc.gov; rjc1@nrc.gov; vgg@nrc.gov
Subject: FW: Safety Conscious Work Environment at the Callaway Nuclear Plant
Date: Wed, 12 Dec 2007 17:46:30 -0500

Mr. Houlihan,

Since I met with you on October 26, my employment with Ameren has ended.

On November 9 I attended a dispute resolution meeting with Ameren in Washington, DC. At that meeting, I was offered a financial settlement in exchange for resigning from my position at the Callaway Nuclear Plant. I was informed by my attorneys that the agreement would preclude me from pursuing my retaliation claim with the US Department of Labor but it would not preclude me from pursuing resolution to my claim with the US Nuclear Regulatory Commission.

My attorneys assured me the amount of compensation being provided to me was a fair settlement for my claim and urged me to take the settlement, which I did. Under strict penalties, I am required to keep even the existence of this agreement confidential, so please do not forward this information to anyone who is not either within the US NRC or associated with the staff of a member of Congress.

I did not file an allegation of retaliation with the Nuclear Regulatory Commission in order to fleece Ameren out of XXXXXXX dollars. I filed my claim because I was concerned about the Safety Conscious Work Environment at the Callaway Nuclear Plant.

I believe that upper management in the Operations Department at the Callaway Nuclear Plant retaliated against me for bringing forth safety concerns. I further believe that when my complaint of retaliation was brought forward to the Employee Concerns Program, it was intentionally ignored by the upper management of the Callaway Nuclear Plant.

The compensation paid to me in no way discourages similar behavior in the future at the Callaway Nuclear Plant; it is an amount which is produced every day before noon by the sale of the electricity generated at Callaway. Ameren can write off settlements such as mine as minor business expenses; well worth the cost for getting rid of "trouble makers".

Today I received a letter from Harry Freeman, the Senior Allegation Coordinator of Region IV of the United States Nuclear Regulatory Commission. In the letter, Mr. Freeman informed me that because of my settlement agreement with Ameren, my discrimination complaint would be closed with no further action.

I vehemently disagree with the closing of my discrimination complaint. At no point was it communicated to me that by accepting a settlement from Ameren I would be relinquishing investigation of my discrimination allegation by the US Nuclear Regulatory Commission.

As the reactor melt downs in Michigan and Pennsylvania in the 1970s demonstrate, operating a nuclear power plant is serious business. Although Professional Engineers at nuclear plants are required to address safety concerns which they encounter, it is an extremely difficult decision to pursue the right path when one knows one's career and the ability to support one's family may be jeopardized.

I have suffered greatly for doing my duty at Ameren. I am currently unemployed and my closest job prospect (which has not yet resulted in an offer) is an eight hour drive from (b)(7)(C). The confrontation between me and my employer has been particularly unnerving (b)(7)(C).

In nuclear power, the self sustaining nature of the fission reaction and the radioactivity of the fission products create inherent risks. Because of these risks, the operation of commercial reactors cannot be entrusted to just anyone. We (the United States) fund the Nuclear Regulatory Commission to ensure the operators of commercial reactors are properly adhering to strict standards of conduct. By its own admission, the US NRC is not capable of performing its role without the support of plant personnel who are willing and able to address safety concerns. Allowing utilities to cheaply get rid of "trouble makers" who are willing to challenge their inappropriate decisions significantly undermines the safe operation of commercial reactors.

If possible, I would like to meet with [REDACTED] either this week or next. I am currently in Missouri attempting to finish a remodeling project on the Jefferson City duplex where I lived during the work week while working at Callaway. I intend to come to Springfield on Friday (December 14), but I can come earlier if you are available to meet. I was planning on spending next Monday and Tuesday (December 17 & 18) in Springfield before returning to Missouri to work on getting my property on the market. Please call me at [REDACTED] and let me know what date and time is convenient for you.

At our meeting, I wish to discuss the options available for ensuring my discrimination complaint is appropriately investigated. Additionally, I would like to discuss my settlement agreement with you and explain why the other individuals I informed you about during our previous meeting are reluctant to come forward. There is a pattern of retaliation at the Callaway Nuclear Plant and the US Nuclear Regulatory Commission's policy of not investigating complaints which are financially settled in the Accelerated Dispute Resolution (ADR) process is allowing this retaliation to continue unabated.

I look forward to hearing from you.

Merry Christmas,

[REDACTED]
[REDACTED]
If you send me something needing my attention, please call me at (573) 230-3959 and leave me a message to check my account.

From: [REDACTED]
To: bill_houlihan@durbin.senate.gov
CC: [REDACTED]
Subject: FW: Safety Conscious Work Environment at the Callaway Nuclear Plant
Date: Mon, 29 Oct 2007 10:05:21 -0400

Mr. Houlihan,

[REDACTED] was terminated during the [REDACTED] (may have been early autumn) and recently reached a settlement with Ameren. He is still concerned with the Safety Conscious Work Environment at the Callaway Nuclear Plant, but, like [REDACTED] fears that any additional pursuit to change that culture will result in reprisal from Ameren. Although speaking with the staff of a United States Senator is protected activity, a frivolous law suit from Ameren would cause [REDACTED] legal expenses which he cannot bear.

Any information [REDACTED] can provide can also be obtained under the Freedom of Information Act. [REDACTED] case was 5 USC S 552 - Case No. [REDACTED].

If your office would request this case, it would provide some insight into the Safety Culture at Callaway Plant.

Thank you for your assistance,

From: [REDACTED]
To: [REDACTED]
Subject: Re: Safety Conscious Work Environment at the Callaway Nuclear Plant
Date: Sun, 28 Oct 2007 22:38:03 -0600

I would be willing to discuss issues within the terms of the agreement that I have between myself and AMERENUE. I would not want to incur any additional legal fees, so I would ask that the individuals who want to talk with me agree to pay for any additional legal fees that I might see due to meetings with other interested personnel.

I can offer the following information, which is available under the FOIA process per 5 USC S 552 -

Case No. (b)(7)(C)

This avenue should provide insight regarding my concerns, without causing extensive involvement on my part at this point.

Let me know what I can do to be of assistance to ensure a SCWE truly exists at all levels at Callaway.

(b)(7)(C)

----- Original Message -----

From: [REDACTED]

To: Gary Olmstead ; (b)(7)(C)

Cc: Houlihan Bill

Sent: Friday, October 26, 2007 4:32 PM

Subject: FW: Safety Conscious Work Enviroment at the Callaway Nuclear Plant

Gentlemen,

I met with Mr. Houlihan from Senator Durbin's office today. The original intent of the meeting was to address the NRC's response to some allegations I had raised. Mr. Houlihan brought up the subject of whether I had been retaliated against. I informed him that I had, but that that issue was still an active investigation which I am willing to allow the NRC a chance to appropriately address. He then asked whether others had been retaliated against in the past. I informed that there was past retaliation against employees who brought forward safety concerns.

Mr. Houlihan asked that I have other people who have been retaliated against contact him. He seemed to prefer that the constituents of Senator McClaskill contact her office and that they (Senators Durbin and McClaskill's staffs) work together to address this issue. I received the sense that since Callaway is in Missouri he wanted to, as a courtesy, get Senator McClaskill's staff involved.

Mr. Houlihan's email address is in the "To:" field of the email below if you wish to contact him. He can put you in touch with the appropriate people in Senator McClaskill's office. He seemed very interested in ensuring Ameren develops and maintains a work environment free of retaliation.

As you can see from the email below, (b)(7)(C) was not comfortable making initial contact with Mr. Houlihan. If you (b)(7)(C) are not comfortable contacting him directly, I can pass (b)(7)(C) information on to him. I have (b)(7)(C) phone number but not her email. Please feel free to forward this email on to her.

Mr. Houlihan's office number is (217) 492-4062 but because of his travel schedule he is most easily contacted via email.

Thank you,

[REDACTED]

From: [REDACTED]

To: bill_houlihan@durbin.senate.gov

CC: bfigg@hendrenandrae.com

Subject: Safety Conscious Work Enviroment at the Callaway Nuclear Plant

Date: Fri, 26 Oct 2007 17:26:38 -0400

Mr. Houlihan,

Thank you for meeting with me today regarding my concerns with the US Nuclear Regulatory Commission and the Callaway Nuclear Plant.

You asked me if there were other individuals who would be willing to speak with you or Senator McCaskill's staff. I just spoke with (b)(7)(C) was the (b)(7)(C) at Callaway Plant until late 2005 when he was terminated (b)(7)(C) reached a settlement with Ameren and is not allowed to speak to me about the particulars of his

case. If his settlement allows it, he would like to speak with you though.

(b)(7)(C)

asked that you contact his attorney, Beverly Figg, at (573) 636-8135 if and when you wish to speak with him. (b)(7)(C)
was deeply involved with the Corrective Action Process at the Callaway Nuclear Plant and the establishment of a Safety Conscious Work Environment.

Please pass Ms. Figg's contact information along to whomever may be involved in investigating the retaliation against whistle blowers at Callaway Plant.

[REDACTED]

William Jones

From: William Jones
Sent: Tuesday, February 24, 2009 3:58 PM
To: Lisamarie Jarriel
Subject: FYI: I will need to discuss with you later. FW: Callaway Plant Discrimination Allegations
Attachments: Allegation Program 2007 Annual Trends Report - page 18.pdf

From: [REDACTED]
Sent: Tuesday, February 24, 2009 2:54 PM
To: NRC Allegation
Cc: Marty Gelfand; Jeanette Oxford; Jeanette Oxford; William Jones; R4ALLEGATION Resource; R4ALLEGATION Resource; Amy Powell; Mary Jean Raphael; FOIA Resource
Subject: Callaway Plant Discrimination Allegations

Attached to this email is page 18 of the Allegation Program's 2007 Annual Trends Report. The paragraph below comes from page 18 of that report:

* Of the seven discrimination concerns submitted in CY 2007, the NRC investigated one that was not substantiated, while two remain under NRC investigation. For the remaining CY 2007 discrimination concerns, the NRC did not investigate one because the alleged requested that it not conduct an investigation, while two others did not present a prima facie showing of potential discrimination. The parties settled one via Early ADR. For the two discrimination concerns submitted in CY 2006, the NRC investigated one that was not substantiated, and the parties settled the other one via Early ADR. In CY 2005, the NRC investigated one discrimination concern that was not substantiated and the parties settled three via Early ADR. In CY 2004, the NRC received no discrimination concerns and in CY 2003, it investigated one discrimination concern that was not substantiated.

There are fourteen discrimination allegations mentioned in the above paragraph:

- 1) 2007 - "the NRC investigated one that was not substantiated"
- 2 & 3) 2007 - "two remain under NRC investigation"
- 4) 2007 - "the NRC did not investigate one because the alleged requested that it not conduct an investigation"
- 5 & 6) 2007 - "two others did not present a prima facie showing of potential discrimination"
- 7) 2007 - "The parties settled one via Early ADR"
- 8) 2006 - "the NRC investigated one that was not substantiated"
- 9) 2006 - "the parties settled the other one via Early ADR"
- 10) 2005 - "the NRC investigated one discrimination concern that was not substantiated"
- 11, 12, & 13) 2005 - "the parties settled three via Early ADR"
- 14) 2003 - "investigated one discrimination concern that was not substantiated"

For each of the fourteen discrimination allegations, please provide me the following:

- the allegation number
- the Office of Investigation case number, if an OI investigation occurred

If you cannot provide me this information, please direct me to the appropriate person or office.

If you can only provide me this information through the Freedom of Information Act, then please consider this a FOIA request. At this point, I am merely requesting the tracking numbers of NRC allegations and OI cases so I do not intend to pay a FOIA fee.

In part because of the number of allegations received in CY 2007, the NRC conducted an augmented number of SCWE-related interviews during the most recent PI&R inspection at Callaway (Inspection Report No. 05000483/2008006) in February-March 2008. From the interviews and the PI&R inspection team's review of the results of Callaway's recent SCWE assessments, the PI&R team determined that Callaway employees generally expressed a willingness to raise nuclear safety concerns and to use the CAP. Although not all of the individuals interviewed by the PI&R team were comfortable using all of the methods available to them for reporting concerns, all were comfortable using at least one method. The PI&R team concluded that the licensee is maintaining a SCWE at the facility and that a chilled work environment does not exist. However, similar to comments made by the independent team chartered by AmerenUE to evaluate the increased numbers of allegations received in 2007, the PI&R team noted some organizational issues not specifically within the NRC's regulatory jurisdiction that, if not addressed by AmerenUE, could potentially affect the SCWE at the plant.

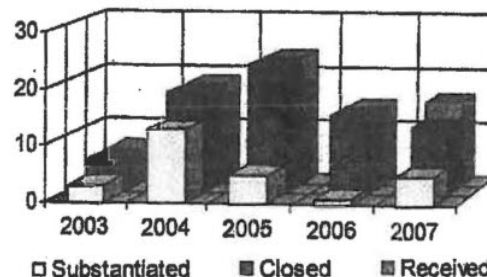
Of the seven discrimination concerns submitted in CY 2007, the NRC investigated one that was not substantiated, while two remain under NRC investigation. For the remaining CY 2007 discrimination concerns, the NRC did not investigate one because the alleged requested that it not conduct an investigation, while two others did not present a prima facie showing of potential discrimination. The parties settled one via Early ADR. For the two discrimination concerns submitted in CY 2006, the NRC investigated one that was not substantiated, and the parties settled the other one via Early ADR. In CY 2005, the NRC investigated one discrimination concern that was not substantiated and the parties settled three via Early ADR. In CY 2004, the NRC received no discrimination concerns and in CY 2003, it investigated one discrimination concern that was not substantiated.

Based on the NRC's recent PI&R inspection findings and the results of the licensee's recent safety culture surveys and SCWE assessments, there does not appear to be a broad SCWE issue at the plant. However, the NRC staff will continue to monitor the SCWE at Callaway by way of the baseline inspection program and allegation trending. Attention should be paid to the effectiveness of the licensee's ongoing efforts to improve identified weaknesses in the CAP and to address organizational issues that could affect the SCWE.

Salem/Hope Creek

The number of allegations received concerning Salem/Hope Creek in CY 2007 (16) represented a slight increase from the number received in 2006 (14) (Figure 8). However, these numbers are significantly lower than the number received in CY 2005 (23) and reflect improvements made in the SCWE area in response to significant SCWE findings identified during the CY 2003 – CY 2004 timeframe. Before CY 2006, the number of allegations received concerning Salem/Hope Creek had steadily increased from CY 2003 through CY 2005, as the SCWE issues emerged and as licensee

FIGURE 8 - SALEM/HOPE CREEK ALLEGATIONS



R4ALLEGATION Resource

From: R4ALLEGATION Resource
Sent: Friday, July 24, 2009 2:45 PM
To: 'Isciscione@hotmail.com'
Subject: RIV-2009-A-0037 Response Information
Attachments: 09037 Response Letter to CI.pdf; 09037 Response Letter to CI - enclosure 2.pdf

Per your telephone conversation with Mr. William B. Jones and Mr. Greg Werner on July 23, 2009, please find attached the response information pertaining to RIV-2009-A-0037.

Thank you.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
612 EAST LAMAR BLVD, SUITE 400
ARLINGTON, TEXAS 76011-4125

Mr. Lawrence Criscione
lsciscione@hotmail.com

SUBJECT: RESPONSE TO CONCERN YOU RAISED TO THE U.S. NUCLEAR
REGULATORY COMMISSION (NRC) REGARDING CALLAWAY PLANT

RE: ALLEGATION RIV-2009-A-0037

Dear Mr. Criscione:

The NRC has completed its follow up in response to the concern you brought to our attention through your February 24, 2009, email regarding the Employee Concerns Program at the Callaway Plant. You were concerned that the Employee Concerns Program does not adequately address the concerns brought to it by plant employees. Enclosure 1 to this letter restates your concern and describes the NRC's review and conclusions with regard to that concern.

We have also enclosed a copy of the NRC's team inspection of the licensee's problem identification and resolution program as Enclosure 2. I do want to acknowledge the benefit the NRC obtained from your assistance in helping to identify individuals for the NRC to interview as part of the safety-conscious work environment and the overall health of the Callaway Plant corrective action program. Through this inspection the NRC interviewed a significantly larger population of individuals at the Callaway Plant than the inspection procedure specifies.

The NRC is continuing with our review of your concerns related to the October 21, 2003, shutdown of the Callaway Plant. These concerns will be addressed in our responses to Allegations RIV-2007-A-0096 and RIV-2009-A-0036. As Mr. William Jones, Chief, Allegation Coordination and Enforcement Branch, discussed with you on July 23, 2009, the NRC will discuss the associated concerns and our findings with you prior to closure of these two allegations.

Thank you for informing us of your concern. Allegations are an important source of information in support of the NRC's safety mission. We take our safety responsibility to the public seriously and will continue to do so within the bounds of our lawful authority. We believe that our actions in this matter have been responsive and unless the NRC receives additional information that suggests that our conclusions should be altered, we plan no further action on this matter.

Mr. Lawrence Criscione

- 2 -

RIV-2009-A-00037

Should you have any additional questions regarding our response, please contact Mr Greg Werner, Chief, Plant Support Branch 2, at 800-952-9677, Extension 156, or you can call Mr. Jones at 800-952-9677, Extension 182.

Sincerely,

A handwritten signature in black ink, reading "Dwight D. Chamberlain". The signature is written in a cursive, flowing style.

Dwight D. Chamberlain, Director
Division of Reactor Projects

Enclosures:

1. Response to Concern
2. NRC Inspection
Report 05000483/2008006

Enclosure 2 is publicly available in ADAMS as
ML090350417.

Mr. Lawrence Criscione

- 3 -

RIV-2009-A-00037

bcc w/Statement of Concern:
Allegation File

Non Responsive Record

ADAMS	No	<input checked="" type="checkbox"/> SUNSI Review Complete			Reviewer Initials: wbj
ACES/mb	C:DRP/PBB	C:DRS/PSB2	C:ACES	D:DRS	D:DRP
BBaca	VGaddy	GWerner	WBJones	RJCaniano	DOHemberlain
/RA/	/RA/	/RA/	/RA/	/RA/	/RA/
06/ 26 /2009	06/21/2009	07/ 01/2009	07/ 2/2009	07/ 3/2009	07/ 24/2009

OFFICIAL RECORD COPY

T=Telephone

E=E-mail

F=Fax

Mr. Lawrence Criscione

- 3 -

RIV-2009-A-00037

bcc w/Statement of Concern:
Allegation File

Non Responsive Record

ADAMS	No	<input checked="" type="checkbox"/> SUNSI Review Complete			Reviewer Initials: wbj	
ACES/mb	C:DRP/PBB	C:DRS/PSB2	C:ACES	D:DRS	DD:DRP	
BBaca	VGaddy	GWerner	WBJones	RJCaniano	AVegel	
<i>12/1</i>	<i>12/1</i>	<i>12/1</i>	<i>12/1</i>	<i>12/1</i>		
06/24/2009	06/24/2009	06/24/2009	07/12/2009	07/12/2009	07/12/2009	

OFFICIAL RECORD COPY

T=Telephone

E=E-mail

F=Fax

Mr. Lawrence Criscione

- 3 -

RIV-2009-A-00037

bcc w/Statement of Concern:
Allegation File

Non Responsive Record

ADAMS	No	<input checked="" type="checkbox"/> SUNSI Review Complete		Reviewer Initials: wbj	
ACES/lmb	C:DRP/PBB	C:DRS/PSB2	C:ACES	D:DRS	
BBaca	VGaddy	GWerner	WBJones	RJCaniano	
BB	Vldz	07/01/2009	07/ /2009	07/ /2009	
06/26/2009	06/27/2009	06/01/2009	07/ /2009	07/ /2009	

OFFICIAL RECORD COPY

T=Telephone

E=E-mail

F=Fax

**RESPONSE TO CONCERN
ALLEGATION RIV-2009-A-0037**

Concern

The Employee Concerns Program at the Callaway Plant does not adequately address the concerns brought to it by plant employees. The Employee Concerns Program at the Callaway Plant functions to "protect" the company from allegation[s] by serving merely as a vehicle to gather information to dispute the alleged's claims. Evidence contrary to the company's position is either not pursued or, if incidentally obtained, is ignored.

Background

In your February 24, 2009, email message to the NRC Headquarters Operations Officer, you provided four examples of Employee Concerns Program investigations in which you believed were not adequately addressed. These cases are summarized as follows:

1. In 2005, a reactor operator at the Callaway Plant informed the Employee Concerns Program that he and other reactor operators were concerned that a (b)(7)(C) was "inattentive" while standing watch in the reactor plant control room.
2. In early 2006, another (b)(7)(C) at the Callaway Plant informed the Employee Concerns Program that the Operations Department did not adequately address the concerns of the reactor operators concerning the previously alleged inattentive (b)(7)(C).
3. In August 2006, you informed the Employee Concerns Program that you believed the Operations Department removed your senior reactor operator license in an act of retaliation for addressing nuclear safety and commercial concerns in the corrective action program. You were told in 2007 that the Employee Concerns Program investigated this concern but were never provided any documentation as to what their results were.
4. In May 2007, the Employee Concerns Program supposedly investigated several concerns you raised in response to your 2006 performance appraisal comments. You were informed over the summer (of 2007) that issues raised in your performance appraisal response were not substantiated. The Employee Concerns Program coordinator refused to provide you any documentation regarding his investigation and you do not believe an adequate investigation was conducted. Specifically, you believe the Employee Concerns Program coordinator only spoke with individuals whom he believed would support the company's position and ignored other individuals mentioned in the response.

NRC Response to Your Concern

The NRC reviewed the licensee's files associated with Examples 1 and 2 as provided in the background. The NRC found that the licensee had reviewed these two concerns and the investigations that were performed appropriately addressed the concerns and the evidence that was developed was adequately pursued.

With regard to Examples 3 and 4, the NRC reviewed these two cases. The details of the files were discussed with the current Employee Concerns Program coordinator and the primary and backup Employee Concerns Program coordinators from 2005 through 2007. The files reflected significant Employee Concerns Program investigation; however, the investigation was not initiated by any specific request from you. Instead the driving force for the files was the fact that you had distributed by email your 2006 performance appraisal to over 60 staff members at the site. The email provided a rebuttal to over 20 performance deficiencies that had been documented. The files did not reflect that the Employee Concerns Program coordinators had provided you with any specific feedback with regard to why your SRO license had been phased out or whether your performance appraisal rating was fair or unfair. Based on the inspectors' review of the files and interviews with the Employee Concerns Program coordinators, you had not requested that the Employee Concerns Program look into these matters. You had documented in an allegation email on August 20, 2007, to the NRC (which was copied to one of the Employee Concerns Program coordinators) a statement that an Employee Concerns Program coordinator review found no merit to your claims of being (1) passed over for promotion to Operating Supervisor, (2) removal of your SRO license and (3) you had received an unfair performance appraisal because of raising safety concerns. This was the only indication the inspectors noted that the Employee Concerns Program did provide feedback on these three items in any Employee Concerns Program documents. The NRC did not find that the licensee had generated any documents providing feedback to you on these issues.

The NRC also reviewed other employee concern files involving concerns that you had initiated. For example, your concern with your operator license phase out pay was reviewed. The NRC determined the investigation was thorough and resulted in a favorable adjustment in senior reactor operator phase out pay to yourself and others.

With regard to the safety-conscious work environment at a facility, which includes Employee Concerns Programs, on May 14, 1996, the Federal Register published a Statement of Policy that set forth the NRC's "expectation" that licensees establish and maintain a safety-conscious work environment in which employees feel free to raise concerns both to their own management and the NRC without fear of retaliation. In the statement, the Commission encourages each licensee to ensure that alternate means of raising and addressing concerns are accessible, credible, and effective. The Statement notes a variety of approaches that licensees have used in the past such as:

- (1) An "open-door" policy that allows the employee to bring the concern to a higher-level manager;
- (2) A policy that permits employees to raise concerns to the licensee's quality assurance group;

(3) An ombudsman program; or

(4) Some form of an Employee Concerns Program.

Please note that this Statement of Policy establishes the NRC's expectations and does not impose any regulatory requirements. The Employee Concerns Program at the Callaway Plant is not required by regulation.

The NRC also considered the results of our inspection activities that would provide insight into the areas of your concern. The NRC last evaluated the licensee's safety-conscious work environment during a problem identification and resolution team inspection completed on March 14, 2008. Because of the increased number of allegations at the facility in Calendar Year 2007, including several discrimination concerns, the team interviewed more personnel than normal to assess the safety-conscious work environment. The team determined that not all individuals were comfortable using all of the methods available to them for reporting concerns; however, all personnel would have used at least one of the methods available for reporting a safety concern. In addition, the team determined that the Employee Concerns Program required more visibility and that not all personnel had confidence in the Employee Concerns Program. The team determined that our review results remained consistent with other safety culture surveys that the Callaway Plant had completed within the last year.

The licensee's 2007 Safety Culture Assessment had concluded that the licensee, generally, had a solid safety culture and that site personnel had nuclear safety as a core value. However, the safety culture assessment identified several groups that required additional attention. The assessment also identified areas that management needed to address related to the general culture and work environment that included implementing appropriate change management, better management of resources, workload, staffing and priorities.

Overall, the team found that interviewed employees felt free to enter issues into the corrective action program, as well as, raise nuclear safety concerns to their supervision, the Employee Concerns Program, and the NRC. During interviews, personnel expressed confidence that the licensee had established an appropriate threshold for documenting nuclear safety issues and that issues entered into the corrective action program would be appropriately addressed.

Conclusion

The NRC did not find that the Employee Concerns Program at the Callaway Plant has failed to adequately address the concerns brought to it by plant employees. Based upon the quality and quantity of information and pertinence to the concerns, the NRC found that the Employee Concerns Program investigation into the inattentive (b)(7)(C) (Examples 1 and 2) was thorough, that all credible leads were followed, and that the conclusions were supported by the documentation contained in the file. The NRC did not find the investigation failed to pursue or ignored evidence "contrary to the company's position." Our review of Examples 3 and 4 found that the Employee Concerns Program group had not initiated an investigation on your behalf because no specific request from you was received. The NRC did not identify any basis to disagree with the Employee Concerns Program position that no response to you was required.

ENCLOSURE 2

NRC Inspection Report 05000483/2008006

This document is publicly available in
ADAMS as ML090350417.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
612 EAST LAMAR BLVD, SUITE 400
ARLINGTON, TEXAS 76011-4125

March 24, 2009

Mr. Lawrence Criscione
1412 Dial Court
Springfield, IL 62704

SUBJECT: CONCERNS YOU RAISED TO THE NUCLEAR REGULATORY COMMISSION
(NRC) REGARDING CALLAWAY PLANT

RE: ALLEGATIONS RIV-2009-A-0036 and 0037

Dear Mr. Criscione:

This letter refers to your electronic mail messages to the R4Allegation mail and other NRC and individual email accounts dated February 23 and February 24, 2009, regarding your concerns that an internal condition report at the Callaway Plant was never investigated and that the Employee Concerns Program at the Callaway Plant does not adequately address the concerns brought to it by plant employees.

Enclosure 1 to this letter documents your concerns as we understand them. We have initiated actions to evaluate your concerns and will inform you of our findings. The NRC normally conducts an evaluation of a technical concern within 6 months, although complex issues may take longer. If the description of any of your concerns as noted in Enclosure 1 is not accurate, please contact me so that we can assure that your concerns are appropriately described and adequately addressed prior to the completion of our review. In addition, you have provided the NRC with numerous questions, some of which you have identified as allegations, in e-mails and an electronic letter. In your letter dated February 28, 2009, you identified 56 items for NRC's consideration. In your e-mail dated March 1, 2009, you provided 10 additional items, one of which you specified was to be considered by the NRC's Inspector General. The NRC is evaluating these items for any follow up actions that may be needed and also in context with the extensive inspections that have been completed to date associated with your concerns addressed in Allegation RIV-2007-A-0096.

As discussed with you on February 27, 2009, in a phone call from Ms. Judith Walker, Allegations Coordinator, we intend to request AmerenUE to perform an evaluation and provide a written response to the NRC. In that case, your name and any other identifying information will be excluded from the information that is provided to AmerenUE in the request for information. We will request that AmerenUE's evaluation be thorough, objective, and that the evaluator be independent of AmerenUE's management responsible for oversight of the functional area related to your concerns. We will evaluate AmerenUE's response, and consider it in developing our conclusions regarding your concerns. We will inform you of our disposition once we have

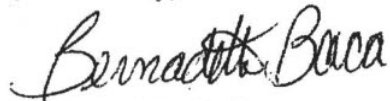
evaluated AmerenUE's response and taken any additional actions, if necessary, to address your concerns.

If a request is filed under the Freedom of Information Act (FOIA) related to your areas of concern, the information provided will, to the extent consistent with that act, be purged of names and other potential identifiers. Further, you should be aware you are not considered a confidential source unless confidentiality has been formally granted in writing.

In an earlier letter, you were provided an NRC brochure entitled, "Reporting Safety Concerns to the NRC." The brochure includes information regarding the NRC allegation process, identity protection, and the processing of claims of discrimination for raising safety concerns. If you need another copy of the brochure, please contact me.

Thank you for notifying us of your concerns. We will advise you when we have completed our review. Should you have any additional questions, or if the NRC can be of further assistance, please call me Monday - Friday between 8 a.m. and 4:30 p.m. Central time at 800-952-9677 extension 245 or on the NRC Safety Hotline at 800-695-7403. Should you want to respond in writing, our mailing address is listed in the header of this letter. My e-mail address is R4Allegation@nrc.gov.

Sincerely,

A handwritten signature in cursive script that reads "Bernadette D. Baca".

Bernadette D. Baca
Senior Allegation Coordinator

Enclosure:
Statement of Concerns

**STATEMENT OF CONCERNS
ALLEGATIONS RIV-2009-A-0036 and 0037**

Allegation RIV-2009-A-0036

Concern:

Callaway Plant did not investigate CAR 200704911, "Evaluate Operations Dept.'s Performance in Analyzing Plant Transients," in a timely manner and that their investigation was inadequate.

Allegation RIV-2009-A-0037

Concern:

The Employee Concerns Program at the Callaway Plant does not adequately address the concerns brought to it by plant employees. The Employee Concerns Program at Callaway Plant functions to "protect" the company from allegation[s] by serving merely as a vehicle to gather information to dispute the alleged's claims. Evidence contrary to the company's position is either not pursued or, if incidentally obtained, is ignored.

Mr. Criscione

- 3 -

RIV-2009-A-0036 and 0037

bcc w/Statement of Concerns:
Allegation File

Non Responsive Record

ADAMS	No	<input checked="" type="checkbox"/> SUNSI Review Complete		Reviewer Initials: wbj	
C:ACES	C:PSB2	C:OB	PBB	C:ACES	SAC
WBJones/lmb	GEWerner	BSaunders	VGaddy	WBJones	BBaca
			vlb		
3/1/2009	3/1/2009	3/1/2009	3/14/2009	3/1/2009	3/1/2009

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Mr. Criscione

- 3 -

RIV-2009-A-0036 and 0037

bcc w/Statement of Concerns:
Allegation File

✓
add from Stapleton

Non Responsive Record

ADAMS	No	<input checked="" type="checkbox"/> SUNSI Review Complete	Reviewer Initials: wbj	
C:ACES	C:PSB2	PBB	C:ACES	SAG
WBJones/lmb	GEWerner	VGaddy	WBJones	BBaca
3/21/2009	3/24/2009	3/1/2009	3/1/2009	3/1/2009

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FINAL QA REVIEW

RIV-2009 -A-0037

Performed by:

Date:

Don Stearns

2/11/10

Y/N	NA	#	Audit Attribute	Comments
1.0 RECEIVING ALLEGATIONS				
Y		1.1	Allegations received were forwarded to ACES within <u>5 days</u> .	
Y		1.2	The Allegation Receipt Form was complete and clearly explained the allegation and the circumstances surrounding it.	
Y		1.3	Name, address and telephone number were obtained from the CI, during the initial contact is preferred, and was provided to ACES with the allegation.	
Y		1.4	If the allegation was received electronically, was the identification of the individual confirmed via telephone or by a follow-up e-mail containing the standard response paragraph, or the allegation treated anonymously?	
2.0 ALLEGATION REVIEW BOARD				
Y		2.1	Allegations were reviewed by an ARB within <u>30 days</u> after the allegation was received in Region IV.	
Y		2.2	The ARB consisted of the responsible Division Director (Chairman), the OAC, OI and the Regional Counsel for matters of suspected wrongdoing. If Regional Counsel was not present for wrongdoing case, she was briefed and concurred with the decision.	
Y		2.3	ARB minutes were complete and clearly captured required actions and assessments.	
Y		2.4	Actions assigned at the ARB were completed in a timely manner.	
Y		2.5	The basis for referral/RFI to the licensee, if one or more of the referral criteria were not met.	
Y		2.6	Safety significance of the issue was discussed? Allegations of significance safety significance were discussed at an ARB in a time commensurate with their significance.	

FINAL QA REVIEW

RIV-2009 -A-0037

Y/N	NA	#	Audit Attribute	Comments
Y		2.7	For discrimination concerns, information collected for a prima facie case was discussed.	
	N/A	2.8	The regulatory basis for issues referred to OI was clear.	
	N/A	2.9	The OI investigation priority and priority basis were discussed.	
Y		2.10	Re-ARB of the transcripts following the staff reviews of new issues, change in priority, or closure recommended?	
	N/A	2.11	Deferral discussed for cases pending before the DOL with an open OI investigation, with the basis for the decision regarding whether to defer clearly documented? The decision to defer a case was reviewed after each DOL decision.	
	N/A	2.12	An ARB was held after 6 months and every 4 months thereafter except for cases involving only issues being investigated by OI or DOL. (Cases with OI or DOL were reviewed through an OI brief, enforcement brief, or check of the DOL status).	
3.0 ACKNOWLEDGING ALLEGATIONS				
Y		3.1	Letters issued within 30 days	
Y		3.2	Clearly and appropriately document concerns identified by ARB.	
N		3.3	Advised of DOL rights.	
Y		3.4	Advised of Identity Protection Policy.	
Y		3.5	The CI was informed if concerns were or will be referred to/evaluated by the licensee.	
4.0 INSPECTIONS				
	N/A	4.1	Inspections are performed consistent with ARB recommendations and commensurate with safety significance, and thoroughly addressed the concern.	
	N/A	4.2	Inspection documentation reflects area inspected without fingerprinting the CI.	
	N/A	4.3	Inspection documentation is included in the case file.	

FINAL QA REVIEW

RIV-2009 -A-0037

Y/N	NA	#	Audit Attribute	Comments
5.0 ALLEGATION RESOLUTION DOCUMENTATION				
Y		5.1	Allegation was resolved in a timely manner, given the circumstances of the issue(s).	
Y		5.2	Closure documentation to the CI clearly and accurately documents each concern, what was done, and whether substantiated, & free of errors. The specific examples provided by the CI are addressed in the closure of the concern.	
Y		5.3	Non-allegations are clearly explained as to why we are not following-up.	

Y/N	NA	#	Audit Attribute	Comments
	N/A	5.4	If a violation, NCV or an IFI is identified, the disposition of the violation is provided.	
6.0 PERIODIC STATUS/MANAGEMENT REVIEWS				
	N/A	6.1	Status letters were issued in writing every <u>6 months</u> for cases open greater than 180 days	
	N/A	6.2	Status letters indicate what continues under review.	
	N/A	6.3	Status letters are clear, concise, and free of errors.	
	N/A	6.4	CI is informed of deferral of issues to the DOL.	
7.0 LICENSEE REFERRALS/RFI				
Y		7.1	Referral/RFI criteria are met.	
Y		7.2	Referral/RFI letters provide sufficient information for the licensee to resolve the issue.	
Y		7.3	Licensee evaluations are independent and thorough.	
Y		7.4	Referral/RFI letter does not compromise CI's identity, requests an evaluation, and response. If referral/RFI compromises identity, the CI first agreed to the identity release.	
N		7.5	If the allegation was referred (FYI) to the licensee and no further action will be taken, the licensee is advised that the concern is closed.	
8.0 STATE REFERRALS				

FINAL QA REVIEW

RIV-2009 -A-0037

Y/N	NA	#	Audit Attribute	Comments
	N/A	8.1	The CI was informed of the NRC's intent to refer and had no objection.	
	N/A	8.2	Allegations made against an Agreement State Official were forwarded to the Director, Office of State Programs, for disposition.	
	N/A	8.3	If the CI agreed to be identified to the State, the allegation case file was closed after appropriate referral to the State and the CI informed of the Referral and POC.	
	N/A	8.4	For those cases where the CI does not want to be identified, the case was held open until the State provided an adequate response and that response was provided to the CI.	
	N/A	8.5	Referral information does not fingerprint the CI or provide extraneous information.	

Y/N	NA	#	Audit Attribute	Comments
	N/A	8.6	Referral letter provide sufficient information for review of the issue(s).	
	N/A	8.7	If CI objected to referral to the State, the referral was made, but a request not to send the issue to the licensee was made.	
	N/A	8.8	Issues within the jurisdiction of an Agreement State and another government agency were referred to the Agreement State and the other government agency.	

9.0 OTHER GOVERNMENT AGENCIES

	N/A	9.1	FEMA issues were referred to NRR.	
	N/A	9.2	OSHA allegations were handled in accordance with Manual Chapter 1007. The ARB considered referring occupational health and safety issues to the licensee.	
	N/A	9.3	A POC for the referral agency was provided to the CI.	
	N/A	9.4	The CI's name was not released without the CI's permission.	
	N/A	9.5	If an issue was referred to another NRC office, the office was contacted before the referral was made?	

10.0 DISCRIMINATION COMPLAINTS

	N/A	10.1	Discrimination complaints being reviewed by the DOL (Need Case No. to demonstrate filing) and OI remain open upon completion of the OI investigation pending the results of the DOL evaluation.	
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FINAL QA REVIEW

RIV-2009 -A-0037

Y/N	NA	#	Audit Attribute	Comments
	N/A	10.2	For cases deferred to the DOL, the CI was informed of the deferral and the AAA approved of the deferral?	
	N/A	10.3	For cases in which a DOL complaint was filed (Need Case No. to demonstrate filing), DOL was contacted before the case was closed to ensure no appeals were outstanding.	
	N/A	10.4	NRC considered taking enforcement action based on an ALJ determination of discrimination.	
	N/A	10.5	DOL DD, ALJ and ARB decisions are included in the allegation file as appropriate.	
	N/A	10.6	OI synopses are transmitted to DOL participants as appropriate.	
	N/A	10.7	If ARB determined early ADR was appropriate, CI was informed timely.	

Y/N	NA	#	Audit Attribute	Comments
	N/A	10.8	When early ARB failed, the case was ARBed timely to initiate an OI investigation, if not already determined in a previous ARB.	
11.0 AMS/ALLEGATION FILE				
X		11.1	AMS contains no names and minimizes fingerprinting information.	
	X	11.2	For discrimination complaints, OI provided transcripts of interview with the CI to OAC for review and coordination with the technical staff.	
	X	11.3	OI Reports, Three-week memos, and staff evaluations are included in the file as applicable.	
	X	11.4	OI synopsis provided to the CI and the licensee, as appropriate (if the licensee was unaware of the investigation or enforcement is proposed against an individual and not the licensee, then providing the synopsis may not be appropriate. OE should be contacted if enforcement was taken only against an individual before the synopsis is released).	
	X	11.5	E-mail responsible branch that file is closed.	

From: Jones, William
To: Well, Jenny;
cc: Vegel, Anton; R4ALLEGATION Resource; Powell, Amy;
Subject: FYI: Allegation Closure letter regarding Employee Concerns program at Callaway to be issued today (2009-A-0037)
Date: Friday, July 24, 2009 9:54:32 AM

Jenny,

I wanted to let you know that Region IV has signed and is issuing a closure letter today regarding employee concern program concerns to the CI who is also involved with the October 2003 issues. Yesterday, the cognizant Branch Chief, Greg Werner and myself called the CI and informed him that we would e-mail (CIs request) the closure letter, provided a general discussion of our activities and offered to have him address any other questions with the branch chief (Werner) next week after reading the letter. I also discussed the status of our review of the October 2003 event, (2007-A-0096 and 2009-A-0036). I committed to discussing our review and results with him prior to issuance of closure letters for those concerns. The forum for that discussion was not decided (that is no commitment there). I do not believe Representative Kucinich's office will be interested in this particular closure letter but definitely the closure and communications regarding the 2003 event. Your preference on whether to update his office at this time. We will need a communication plan that I will run through you for the latter discussion. Representative Oxford will need to be included.

Thanks

William B. Jones
Chief, Allegation Coordination and Enforcement Branch
U.S. Nuclear Regulatory Commission
Region IV
(817) 860-8182
(b)(7)(C) (c)
william.jones@nrc.gov

From: Lawrence Criscione
To: Jones, William;
cc: R4ALLEGATION Resource;
Subject: RE: Request: Call to provide status of two concerns 2009-A-0036 and 37
Date: Monday, July 20, 2009 8:24:46 PM

Bill,

I'll call you at 0930 on Thursday.

Is RIV-2007-A-0096 still an open allegation?

Larry

Lawrence S. Criscione
(573) 230-3959

From: William.Jones@nrc.gov
To: lscriscione@hotmail.com
CC: R4ALLEGATION.Resource@nrc.gov
Date: Mon, 20 Jul 2009 11:18:59 -0500
Subject: Request: Call to provide status of two concerns 2009-A-0036 and 37

Larry, Would 9:30 cdt, Thursday 7/23/09 work for you. Please call into (817) 860-8182 or I can call you if preferred.

Thanks

William B. Jones
Chief, Allegation Coordination and Enforcement Branch
U.S. Nuclear Regulatory Commission
Region IV
(817) 860-8182
(b)(7)(C) (c)
william.jones@nrc.gov

From: Jones, William
To: R4ALLEGATION Resource;
Subject: FW: ***** Sensitive [Request: Highlighted sentences in response to the same individual for an allegation] Allegation Material*****
Date: Monday, July 20, 2009 12:44:26 PM

From: Ghasemian, Shahram
Sent: Friday, July 17, 2009 10:43 AM
To: Jones, William
Cc: Vito, David; Solorio, Dave
Subject: RE: ***** Sensitive [Request: Highlighted sentences in response to the same individual for an allegation] Allegation Material*****

Bill - My reading of his overall concern deals with ECPs inadequacies and not his retaliation complaint. As I read examples 3 and 4 below, these examples are not alleging that he was retaliated against but rather are raising concerns about some aspects of the ECP's handling of his discrimination allegation. Therefore, I don't believe we can rely on the ADR program policy for not investigating into these specific examples.

With regards to #3, he is saying that he was not given any documents indicating the results of the licensee's investigation. I suspect we can check the file and interview the ECP manager to determine how the ECP communicated their findings, if any, with him. On that basis, we substantiate or not substantiate his allegation that he was never told in writing what the ECP found.

As for #4, we can again check the file to see how the ECP went about conducting their investigation, how they went about selecting who to interview and their rationale for not interviewing the individuals who Mr. Criscione thinks should've been interviewed. Based on that we may make a determination about whether their investigation was reasonable.

So, in both examples, although they are related to his discrimination complaint, they allege a deficiency with the ECP program rather than alleging again that he was retaliated against.

In sum, in my opinion, the highlighted paragraph would not be responsive to his allegations in examples #3 and 4.

Regards
Shahram

Shahram Ghasemian
Nuclear Regulatory Commission
(Telephone) 301.415.3591

From: Jones, William
Sent: Friday, July 17, 2009 10:49 AM
To: Ghasemian, Shahram
Subject: ***** Sensitive [Request: Highlighted sentences in response to the same individual for an allegation] Allegation Material*****

Shahram,

Would you please look at the highlighted paragraph. I am interested in any comment particularly any way I may be crosswise with your letter to the individual. Thanks

Concern

The employee concerns program at the Callaway Plant does not adequately address the concerns brought to it by plant employees. The employee concerns program at the Callaway Plant functions to "protect" the company from allegation [s] by serving merely as a vehicle to gather information to dispute the alleged's claims. Evidence contrary to the company's position is either not pursued or, if incidentally obtained, is ignored.

Background

In your February 24, 2009, email message to the NRC Headquarters Operations Officer, you provided four examples of employee concerns program investigations in which you believed were not adequately investigated. These cases are summarized as follows:

1. In 2005, a reactor operator at the Callaway Plant informed the employee concerns program that he and other

reactor operators were concerned that a (b)(7)(C) was "inattentive" while standing watch in the reactor plant control room.

2. In early 2006, another (b)(7)(C) at the Callaway Plant informed the employee concerns program that the Operations Department did not adequately address the concerns of the reactor operators' concerning the previously alleged inattentive (b)(7)(C).

3. In August 2006, you informed the employee concerns program that you believed the Operations Department removed your senior reactor operator license in an act of retaliation for addressing nuclear safety and commercial concerns in the corrective action program. You were told in 2007 that the employee concerns program investigated this concern but were never provided any documentation as to what their results were.

4. In May 2007, the employee concerns program supposedly investigated several concerns you raised in response to your 2006 performance appraisal comments. You were informed over the summer (of 2007) that issues raised in your performance appraisal response were not substantiated. The employee concerns program coordinator refused to provide you any documentation regarding his investigation and you do not believe an adequate investigation was conducted. Specifically, you believe the employee concerns program coordinator only spoke with individuals whom he believed would support the company's position and ignored other individuals mentioned in the response.

NRC Response to Your Concern

The NRC reviewed the licensee's files associated with Examples 1 and 2. The NRC found that the licensee had reviewed these two concerns and the investigations that were performed addressed the concerns as well as the evidence that was developed was adequately pursued. However, since you did not raise either of these issues to the Employee Concerns Program, we are unable to provide you with any specific details associated with their investigation.

With regard to Examples 3 and 4, these two examples are associated with your previous claim of employment discrimination as documented in Allegation File RIV-2007-A-0093. In keeping with the NRC's policy of not investigating discrimination allegations that are settled either using the NRC's Alternative Dispute Resolution or a similar mediation process, the NRC did not review the licensee's employee concerns program files associated with these investigations. The NRC's Office of Enforcement is providing you a separate correspondence addressing the NRC's Alternative Dispute Resolution program.

With regard to the safety-conscious work environment at a facility, which includes employee concerns programs, on May 14, 1996, the Federal Register published a Statement of Policy that set forth the NRC's "expectation" that licensees establish and maintain a safety-conscious work environment in which employees feel free to raise concerns both to their own management and the NRC without fear of retaliation. In the statement, the Commission encourages each licensee to ensure that alternate means of raising and addressing concerns are accessible, credible, and effective. The Statement notes a variety of approaches that licensees have used in the past such as:

- (1) An "open-door" policy that allows the employee to bring the concern to a higher-level manager;
- (2) A policy that permits employees to raise concerns to the licensee's quality assurance group;
- (3) An ombudsman program; or
- (4) Some form of an employee concerns program.

Please note that this Statement of Policy establishes the NRC's expectations and does not impose any regulatory requirements. The employee concerns program at the Callaway Plant is not required by regulation.

The NRC last evaluated the licensee's safety-conscious work environment during a problem identification and resolution team inspection completed on March 14, 2008. Because of the increased number of allegations at the facility in Calendar Year 2007, including several discrimination concerns, the team interviewed more personnel than normal to assess the safety conscious work environment. The team determined that not all individuals were comfortable using all of the methods available to them for reporting concerns; however, all personnel would have used at least one of the methods available for reporting a safety concern. In addition, the team determined that the employee concerns program required more visibility and that not all personnel had confidence in the employee concerns program. The team determined that our review results remained consistent with other safety culture surveys that the Callaway Plant had completed within the last year.

The 2007 Safety Culture Assessment had concluded that the licensee, generally, has a solid safety culture and that site personnel have nuclear safety as a core value. However, the safety culture assessment identified several groups that required additional attention. The assessment also identified areas that management needed to address related to the general culture and work environment that included implementing appropriate change management, better

management of resources, workload, staffing and priorities.

Conclusion

Based upon the quality and quantity of information and pertinence to the concerns, the NRC found that the employee concerns program investigation into the Inattentive (b)(7)(C) Concerns1 and 2) was thorough, that all credible leads were followed, and that the conclusions were supported by the documentation contained in the file. The NRC did not find the investigation failed to pursue or ignored evidence "contrary to the company's position."

On March 14, 2008, the NRC completed a team inspection of the licensee's problem identification and resolution program. Part of the inspection focused on the safety-conscious work environment of the employees. Overall, the team found that interviewed employees felt free to enter issues into the corrective action program, as well as, raise nuclear safety concerns to their supervision, the employee concerns program, and the NRC. During interviews, personnel expressed confidence that the licensee had established an appropriate threshold for documenting nuclear safety issues and that issues entered into the corrective action program would be appropriately addressed. The team determined that not all individuals were comfortable using all of the methods available to them for reporting concerns; however, all personnel would have used at least one of the methods available for reporting a safety concern.

William B. Jones
Chief, Allegation Coordination and Enforcement Branch
U.S. Nuclear Regulatory Commission
Region IV
(817) 860-8182
(b)(7)(C) (c)
william.jones@nrc.gov

From: Jones, William
To: R4ALLEGATION Resource;
Subject: *****Sensitive Allegation-Related Material R4 2007-A-0096; 2007-A-0093, 2009-A-0036 and 2008-A-0037*****
Date: Wednesday, June 17, 2009 3:50:33 PM

From: Dricks, Victor
Sent: Tuesday, June 16, 2009 2:26 PM
To: Brenner, Eliot; Hayden, Elizabeth; Collins, Elmo; Casto, Chuck; Vogel, Anton; Jones, William; Jarriel, Lisamarie
Subject: TNT
Importance: High

Region IV spoke with an Associated Press reporter from Columbia, Missouri, regarding an incident that occurred at Callaway in 2003 that was brought to the attention of the NRC by an alleged. The reporter said the alleged, who has previously contacted several public officials including Ohio Sen. Dennis Kucinich, has provided him with numerous documents and claims that the NRC did a shoddy job of investigating his concerns. While we normally do not comment on allegations, but following consultation with Elmo Collins, William Jones, who heads the Region's allegations branch, and Lisa Marie Jarrell, we made the following points with the reporter: (1) NRC conducted a thorough review of the technical issues brought to our attention and determined that the 2003 incident did not pose a danger to public health & safety, although procedural shortcomings were identified in the licensee's response to the shutdown event; (2) the NRC review identified the need for corrective action to prevent recurrence. Ameren UE has taken corrective actions and the NRC continues to verify the effectiveness of those actions; (3) NRC staff interviewed some 93 people as part of our review and conducted an extensive investigation of the safety-conscious work environment at the Callaway site. Our review indicated a willingness by workers to raise safety concerns with their management. We also explained our allegations process to the reporter and the importance the agency places on establishing good relationships with individuals who raise safety concerns and thoroughly investigating issues they raise. We noted that we normally do not comment on allegations, but did so in a limited fashion in this case, since the individual has waived his anonymity. We expect the wire service to publish a story tomorrow.

Victor Dricks
Public Affairs Officer
U.S. Nuclear Regulatory Commission
Region IV
612 E. Lamar Blvd., Suite 400

Arlington, Texas 76011
(817) 860-8128
Victor.dricks@nrc.gov

From: Jones, William
To: R4ALLEGATION Resource;
Subject: Phone record: Allegations 2007-A-0096 and 2009-A-0036
Date: Thursday, June 25, 2009 4:14:13 PM

On June 22, 2009, Mr. C called to describe a problem with deliver of two emails. He left a phone message. I returned his call and described not everyone on his list of addresses had received the message but we did have two separate documents from over the weekend. This was also a phone message. No additional calls were received.

William B. Jones
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wiliam.jones@nrc.gov

From: Jones, William
To: R4ALLEGATION Resource;
Subject: Phone Record: June 19, 2009, R4-2007-A-0096, 2009-A-0036 and 2009-A-0037
Date: Thursday, June 25, 2009 4:10:26 PM

On June 19, 2009, Mr. Vogel and myself discussed the status of his three open allegations R4-2007-A-0096, 2009-A-0036 and 2009-A-0037. He brought up the need to address his 56 questions during the call in order to understand his perspective of the October 2003 shutdown. One commitment to provide Mr. Criscione a status of his concerns the week of July 13, 2009, by telephone was made and prior to issuing a closure letter.

William B. Jones
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R4ALLEGATION Resource

From: Freeman, Harry
Sent: Tuesday, June 30, 2009 10:59 AM
To: R4ALLEGATION Resource
Subject: RIV-2009-A-0037 Replacement
Attachments: Doc2.doc

Please replace the associated section of the closure letter with the attachment.

Harry

NRC Response to Your Concern

On May 14, 1996, the Federal Register published a Statement of Policy that set forth the NRC's "expectation" that licensees establish and maintain a safety-conscious work environment in which employees feel free to raise concerns both to their own management and the NRC without fear of retaliation. In the statement, the Commission encourages each licensee to ensure that alternate means of raising and addressing concerns are accessible, credible, and effective. The Statement notes a variety of approaches that licensees have used in the past such as:

- (1) An "open-door" policy that allows the employee to bring the concern to a higher-level manager;
- (2) A policy that permits employees to raise concerns to the licensee's quality assurance group;
- (3) An ombudsman program; or
- (4) Some form of an employee concerns program.

Please note that this Statement of Policy establishes the NRC's expectations and does not impose any regulatory requirements. Therefore, if a licensee, such as Ameren UE, decides to establish an employee concerns program, it may not be based upon a regulatory requirement and may not fall under the NRC's jurisdiction.

The NRC last evaluated the licensee's safety-conscious work environment during a problem identification and resolution team inspection completed on March 14, 2008. Because of the increased number of allegations at the facility in Calendar Year 2007, including several discrimination concerns, the team interviewed more personnel than normal to assess the safety-conscious work environment. The team determined that not all individuals were comfortable using all of the methods available to them for reporting concerns; however, all personnel would have used at least one of the methods available for reporting a safety concern. In addition, the team determined that the employee concerns program required more visibility and that not all personnel had confidence in the employee concerns program. The team determined that our review results remained consistent with other safety culture surveys that the Callaway Plant had completed within the last year. A copy of this inspection report is included as Enclosure 2.

The 2007 Safety Culture Assessment had concluded that the licensee, generally, has a solid safety culture and that site personnel have nuclear safety as a core value. However, the safety culture assessment identified several groups that required additional attention. The assessment also identified areas that management needed to address related to the general culture and work environment that included implementing appropriate change management, better management of resources, workload, staffing and priorities.

The NRC reviewed the four examples you provided and concluded that Examples 3 and 4 were associated with your previous claim of employment discrimination as documented in Allegation File RIV-2007-A-0093. In keeping with the NRC's policy of not investigating discrimination allegations that are settled either using the NRC's Alternative Dispute Resolution or a similar mediation process, the NRC did not review the licensee's employee concerns program files associated with these investigations. However, the NRC did review the licensee's files associated with Examples 1 and 2. Since you did not raise either of these issues to the

Employee Concerns Program, we are unable to provide you with any specific details associated with their investigation.

Conclusion

Based upon the quality and quantity of information and pertinence to the concerns, the NRC found that the employee concerns program investigation into the inattentive (b)(7)(C) was thorough, that all credible leads were followed, and that the conclusions were supported by the documentation contained in the file. The NRC did not find the investigation failed to pursue or ignored evidence "contrary to the company's position."

On March 14, 2008, the NRC completed a team inspection of the licensee's problem identification and resolution program. Part of the inspection focused on the safety-conscious work environment of the employees. Overall, the team found that interviewed employees felt free to enter issues into the corrective action program, as well as, raise nuclear safety concerns to their supervision, the employee concerns program, and the NRC. During interviews, personnel expressed confidence that the licensee had established an appropriate threshold for documenting nuclear safety issues and that issues entered into the corrective action program would be appropriately addressed. The team determined that not all individuals were comfortable using all of the methods available to them for reporting concerns; however, all personnel would have used at least one of the methods available for reporting a safety concern.

From: Freeman, Harry
To: R4ALLEGATION Resource;
cc: Werner, Greg; Jones, William;
Subject: RIV-2009-A-0037
Date: Tuesday, June 23, 2009 1:05:36 PM

On June 17, 2009, a meeting was held with Crystal Holland, Karla Fuller, Dave Dumbacher (by phone), Vince Gaddy, William Jones, and Greg Werner in the OI conference room to discuss the subject allegation. Based upon this meeting, the attendees concluded that there was insufficient evidence regarding the alleged inattentiveness the (b)(7)(C) to warrant additional OI or staff actions. I understand that the attendees agreed that a closure letter should be sent to the alleged and that the allegation file should be closed. The closure letter should be based upon PSB2's closure memo but all of the documentation should not be included in the closure letter since the alleged was not the concerned individual who brought up the issues to the ECP. I understand that Mr. Jones was provided a marked up copy of the closure memo. Unless there is some other compelling reason why this allegation must be discussed at the ARB, please cancel the action in AMS and place the allegation file in your actions queue in order to draft the closure letter. This allegation is currently 119 days old.

Harry Freeman
Senior Reactor Inspector
817-860-8239



R4ALLEGATION Resource

From: Werner, Greg
Sent: Wednesday, June 24, 2009 7:53 AM
To: R4ALLEGATION Resource
Subject: 09037 Closure Memo
Attachments: 09037 Closure Basis Rev1.doc

I'm resending this again, because I couldn't find where I had sent it to R4Allegations. I know I sent a copy to Bill for review.

Greg Werner

**RESPONSE TO CONCERN
ALLEGATION RIV-2009-A-0037**

**Approved By: Greg Werner, Chief, Plant Support Branch 2
Richard Deese, Acting Chief, Projects Branch B**

June 4, 2009

Concern 1

The employee concerns program at the Callaway Plant does not adequately address the concerns brought to it by plant employees. The employee concerns program at Callaway Plant functions to "protect" the company from allegation[s] by serving merely as a vehicle to gather information to dispute the alleged's claims. Evidence contrary to the company's position is either not pursued or, if incidentally obtained, is ignored.

In your February 24, 2009, Email message to the NRC Headquarters Operations Officer, you provided four examples of employee concerns program investigations in which you believed were not adequately investigated. These cases are summarized as follows:

1. In 2005 a reactor operator at Callaway Plant informed the employee concerns program that he and other reactor operators were concerned that a (b)(7)(C) was "inattentive" while standing watch in the reactor plant control room.
2. In early 2006 another (b)(7)(C) at Callaway Plant informed the employee concerns program that the Operations Department did not adequately address the concerns of the reactor operators' concerning the previously alleged inattentive (b)(7)(C).
3. In August 2006, you informed the employee concerns program that you believed the Operations Department removed your senior reactor operators license in an act of retaliation for addressing nuclear safety and commercial concerns in the corrective action program. You were told in 2007 that the employee concerns program investigated this concern but were never provided any documentation as to what their results were.
4. In May 2007, the employee concerns program supposedly investigated several concerns you raised in response to your 2006 Performance Appraisal comments. You were informed over the summer (of 2007) that issues raised in your performance appraisal response were not substantiated. The employee concerns program coordinator refused to provide you any documentation regarding his investigation and you do not believe an adequate investigation was conducted. Specifically, you believe the employee concerns program coordinator only spoke with individuals whom he believed would support the company's position and ignored other individuals mentioned in the response.

NRC Response to Concern

On May 14, 1996, the Federal Register published a Statement of Policy that set forth the NRC's "expectation" that licensees establish and maintain a safety-conscious work environment in which employees feel free to raise concerns both to their own management and the NRC without fear of retaliation. In the statement, the Commission encourages each licensee to ensure that alternate means of raising and addressing concerns are accessible, credible, and effective. The Statement notes a variety of approaches that licensees have used in the past such as:

- (1) An "open-door" policy that allows the employee to bring the concern to a higher-level manager;
- (2) A policy that permits employees to raise concerns to the licensee's quality assurance group;
- (3) An ombudsman program; or
- (4) Some form of an employee concerns program.

Please note that this Statement of Policy establishes the NRC's expectations and does not impose any regulatory requirements. Therefore, if a licensee such as Ameren UE decides to establish an employee concerns program, it would not be based upon a regulatory requirement and does not fall under the NRC's jurisdiction.

The NRC last evaluated the licensee's safety-conscious work environment during a problem identification and resolution team inspection completed on March 14, 2008. Because of the increased number of allegations at the facility in Calendar Year 2007, including several discrimination concerns, the team interviewed more personnel than normal to assess the safety-conscious work environment. The team determined that not all individuals were comfortable using all of the methods available to them for reporting concerns; however, all personnel would have used at least one of the methods available for reporting a safety concern. In addition, the team determined that the employee concerns program requires more visibility and that not all personnel had confidence in the employee concerns program. The team determined that our review results remained consistent with other safety culture surveys that Callaway Plant had completed within the last year.

The NRC reviewed the four examples you provided and concluded that Examples 3 and 4 were associated with your previous claim of employment discrimination as documented in Allegation File RIV-2007-A-0093. In keeping with the NRC's policy of not investigating discrimination allegations that are settled either using the NRC's Alternative Dispute Resolution or similar mediation process, the NRC did not review the licensee's employee concerns program files associated with these investigations. The NRC noted that Examples 1 and 2 were the subjects of other allegations to the NRC. These examples were thoroughly investigated by the NRC's Office of Investigations and were not substantiated. However, the NRC did review the licensee's files associated with these examples.

Example 1

The NRC reviewed the licensee's employee concerns program records regarding this concern. The NRC found no evidence that this issue was raised to the employee concerns program by a reactor operator on behalf of himself/herself and/or other reactor operators in 2005. The employee concerns program did have record of an investigation initiated on January 24, 2006, regarding a concern about the alertness/attentiveness of this (b)(7)(C) when another (b)(7)(C) raised this issue to their attention. This file consisted of two accordion folders containing a total of approximately 6 inches of documentation.

The investigator interviewed all of the individuals suggested by the concerned individual who may have had direct knowledge of the alleged inattentiveness. The investigator interviewed a total of eight licensed on-shift operators and three operations managers. Based upon the overwhelming agreement information obtained during the interviews, the investigator and (b)(7)(C) concluded the concern was valid and removed the (b)(7)(C) from shift watch duties on January 31, 2006.

Example 2

The investigation (described above) found that there were indications that licensee management was aware of the concern that this (b)(7)(C) had alertness/attentiveness issues prior to being investigated by the employee concerns program. However, only one individual interviewed during the investigation stated that he had raised the concern to licensee management. Other individuals indicated that they believed that management was aware of the issue by little comments.

The investigation file also contained a record of a discussion the (b)(7)(C) held with the (b)(7)(C) and the (b)(7)(C) on February 3, 2006. The (b)(7)(C) indicated that he was disappointed with their handling of this matter. Both individuals indicated that they had made inquiries regarding the matter but they had been unable to substantiate the concern. The (b)(7)(C) indicated that he had been cautioned against discussing the issue with reactor operators due to confidentiality concerns. The (b)(7)(C) recommended that they consider using the employee concerns program to investigate personnel issues and he required that the (b)(7)(C) and (b)(7)(C) develop corrective actions.

Common to Both Examples

The investigation files also contained copies of documents associated with both issues including: copies of telephone conversations with the medical review officer, performance appraisals, fitness-for-duty records, an assessment of the adequacy of the behavior observation program, and security card reader logs. The records also indicate that the investigator and (b)(7)(C) did conclude and immediately address that they needed some assurance that the operations department personnel would raise safety concerns. This led to a safety culture survey in 2007.

The 2007 Safety Culture Assessment concluded that the licensee, generally, has a solid safety culture and that site personnel have nuclear safety as a core value. However, the safety culture assessment identified several groups that required additional attention. The assessment also identified areas that management needed to address related to the general culture and work environment that included implementing appropriate change management, better management of resources, workload, staffing and priorities.

Conclusion

Based upon the quality and quantity of information and pertinence to the concerns, the NRC found that the employee concerns program investigation into the inattentive (b)(7)(C) was thorough, that all credible leads were followed, and that the conclusions were supported by the documentation contained in the file. The NRC did not find the investigation failed to pursue or ignored evidence "contrary to the company's position."

On March 14, 2008, the NRC completed a team inspection of the licensee's problem identification and resolution program. Part of the inspection focused on the safety-conscious work environment of the employees. Overall, the team found that interviewed employees felt free to enter issues into the corrective action program as well as, raise nuclear safety concerns to their supervision, the employee concerns program, and the NRC. During interviews, personnel generally expressed confidence that the licensee had established an appropriate threshold for documenting nuclear safety issues and that issues entered into the corrective action program would be appropriately addressed. The team determined that not all individuals were comfortable using all of the methods available to them for reporting concerns; however, all personnel would have used at least one of the methods available for reporting a safety concern.

A copy of Inspection Report 05000483/2008006 is attached.

R4ALLEGATION Resource

From: Lawrence Criscione [lcriscione@hotmail.com]
Sent: Tuesday, May 19, 2009 10:46 PM
To: Bernadette Baca
Cc: Marty Gelfand; Amy Powell; Jeanette Oxford; Jeanette Oxford; louisc@whistleblower.org; sarahg@whistleblower.org; John Kramer; R4ALLEGATION Resource; R4ALLEGATION Resource; NRC Allegation; William Jones; David Dumbacher; Michael Peck; Tony Vogel;
Subject: Response to your March 24, 2009 Letter
Attachments: Allegation RIV-2007-A-0096 - May 19, 2009.doc

Bernadette,

Please see the attached letter for my response to your March 24, 2009 letter.

Thank you,

Larry

Lawrence S. Criscione
(573) 230-3959

May 19, 2009

1412 Dial Court
Springfield, IL 62704

Ms. Bernadette D. Baca
Senior Allegation Coordinator
United States Nuclear Regulatory Commission
Region IV
612 East Lamar Blvd., Suite 400
Arlington, Texas 76011-4125

Subject: Response to your March 24, 2009 Letter

Dear Ms. Baca:

I am writing this letter in response to your March 24, 2009 letter to me.

I apologize for taking nearly two months to respond to your letter. I work 500 miles away from (b)(7)(C) is not very efficient at providing me my mail. If possible, please copy me via email on future correspondence.

In your letter you enclosed a statement of my concerns. You define them as Allegation RIV-2009-A-0036 and Allegation RIV-2009-A-0037. Although I agree that these are concerns which I have regarding Callaway Plant, your letter has failed to address some of my more specific concerns.

In a March 1, 2009 letter to Bill Jones, I document my concerns that the US NRC has failed to realized that the performance of OTO-NN-00001 on October 21, 2003 did not significantly contribute to the operating crew's 106 minute delay in inserting the control banks. I asked that this be investigated as a separate allegation. The reason I wish for this to be investigated separately is because I believe it is a simple and straight forward issue when looked at separately. Unfortunately, the US NRC has never separately looked at this issue, but instead has blindly accepted the licensee's claims that the performance of OTO-NN-00001 prior to 11:37 am on October 21, 2003 was a higher priority than inserting the control banks, even after reactor power had entered the Source Range.

In a February 28, 2009 letter to Bill Jones, I documented 56 items which I would like the US NRC to address concerning the October 21, 2003 Incident at Callaway Plant. I requested that for each of the 56 items the US NRC, in writing, either concur with the item, explain their disagreement with the item, or explain why they cannot address the item. I have repeatedly been told by Mr. Bill Jones that the US NRC will not be separately responding to each of the 56 items. I would like an explanation provided to me, in writing, as to why my 56 items will not be separately addressed (all I am asking for is, for each item the US NRC cannot concur with, a few sentences explaining the US NRC's disagreement with the item).

I met with John Kramer last week concerning my February 28, 2009 and March 1, 2009 letters. One of the topics Mr. Kramer and I discussed was the licensee's ability to answer some of the items in my February 28, 2009 letter.

In March 2009 I specifically informed the US NRC that I did not want my concerns to be handed over to the licensee for investigation. Based on my passed experience with the allegation process, I believe that if I agree to the licensee investigating my allegation, then the US NRC will accept – WITHOUT PROVIDING ME A CHANCE TO REFUTE IT – any garbage the licensee wishes to provide as an answer.

Mr. Kramer made a valid point that quite a few of my 56 items could be easily validated by the licensee with minimal effort on the licensee's part whereas the effort undertaken by the US NRC would be much greater.

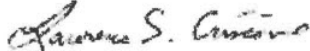
I do not have an issue with the US NRC handing over my February 28, 2009 and March 1, 2009 letters to Callaway Plant for internal investigation. My concern is that, if I agree to the licensee investigating my concerns, I will NOT be provided a chance to review the licensee's answers (and thereby the answer the US NRC will be blindly accepting) until after the investigation is closed and I am able to FOIA the heavily redacted licensee reports.

I would like the US NRC to actively involve me in addressing my February 28th and March 1st letters. If, in order to save resources, the US NRC wishes to allow the licensee to investigate my concerns, I do not have a problem with that provided I AM ABLE TO MEET WITH THE US NRC TO REVIEW AND CRITIQUE THE LICENSEE'S FINDINGS prior to the US NRC closing my allegations. If the licensee would like a representative present at this meeting, that is acceptable with me.

Please let me know the following:

1. Will my March 1, 2009 letter be addressed as a separate allegation? If no, why not?
2. Will the US NRC individually address each of the 56 items in my February 28, 2009 letter? If no, why not?

Thank you for your assistance,



Lawrence S. Criscione, PE

Lynn Berger

From: Lawrence Criscione [lscriscione@hotmail.com]
Sent: Tuesday, May 05, 2009 7:16 AM
To: Marty Gelfand
Cc: William Jones; tony.vegel@nrc.gov; John Kramer; David Dumbacher; Jeanette Oxford; Jeanette Oxford; Gary Olmstead; Amy Powell; Anne Wall; Bernadette Baca; Michael Peck; R4ALLEGATION Resource; Roy Caniano; NRC Allegation; R4ALLEGATION Resource; emerschhoff@aol.com; Vincent Gaddy; Houlihan Bill; Llona Weiss
Subject: NRC's Refusal to Investigate the October 21, 2003 Incident

Marty,

Yesterday I had a 109 minute phone conversation with the US NRC's John Kramer. He is the individual that Region IV of the US NRC has assigned to look into my allegations regarding the October 21, 2003 Incident.

Although Mr. Kramer informed me he had read my February 28th letter to Bill Jones and that he agreed with my assessment of the October 21, 2003 Incident, I did not have the sense that he was willing to validate my version of the incident in a written report.

Most of our phone conversation consisted of me attempting to convince Mr. Kramer of why it is important for the US NRC to understand what happened on October 21, 2003 at the Callaway nuclear plant.

Mr. Kramer made it clear to me at several points in our conversation that the US NRC would NOT be addressing any of the 56 items (from my 2/28/2009 letter) specifically. He informed me that his mandate from Region IV is to ensure that the CURRENT reactivity management practices at Callaway Plant are acceptable and that none of the contributors to the October 21, 2003 Incident still exist. Although I agree that the US NRC should ensure that utilities learn from their mistakes, this is not the only thing that matters. Exposing the truth is important and of value too. (For example, we want the government to address the crisis to our banking system by bringing it to an end and restoring health to the system, but it is also important that we understand the involvement of key individuals in the crisis whose less than honest actions contributed to it).

During our April 29th phone conference with Region IV, Mr. Jones and Mr. Vogel made it clear that they would not be individually addressing, in writing, the 56 items from my February 28th letter. However, I was under the impression that I would be meeting with Mr. Kramer to discuss each of the items. I was unaware that Mr. Kramer was merely being sent to Callaway Plant to validate that their CURRENT reactivity management practices are satisfactory.

All of the 56 items from my letter are straight forward statements, about either the facts or my assumptions, concerning the October 21, 2003 Incident. If Region IV cannot readily comment on each of these items, THEN THEY HAVE NOT ADEQUATELY LOOKED INTO THE INCIDENT.

Mr. Kramer has stated that the level of effort involved in addressing my items is significant. I believe that the 56 items from my letter could be addressed in two days, provided that the individual addressing them has a thorough understanding of the October 21, 2003 Incident. If no one at Region IV has a thorough understanding of the incident, THEN REGION IV HAS NOT YET DONE THEIR JOB and they need to assign a competent, technical inspector (such as Mr. Kramer) the task of reviewing the technical aspects of the incident and providing an assessment. After reviewing the technical aspects of the incident (CAR 200701278 data, responses to Actions 5 & 6 of CAR 200702606, control room logs, procedures referenced in the logs) and providing an assessment of whether or not the operators acted in accordance with the US NRC's expectations, my 56 items can be readily commented on with little extra effort.

The US NRC mischaracterizes me as demanding lengthy answers to ALL 56 items. This is not accurate. All I want is for the US NRC to, in writing: state their concurrence with items which they concur, briefly explain their disagreements with items they disagree, and, for any items they refuse to

address, explain why they refuse to address it.

THE REQUEST IN THE PARAGRAPH ABOVE IS NOT UNREASONABLE. US NRC licensed operators intentionally delaying the use of reactivity control systems to cover up a plant transient is a significant allegation. Assigning resources, to investigate the technical feasibility of the operators' explanations for delaying the control bank insertions, is not an unreasonable expectation of the public.

I now fear that the US NRC has some self serving motives for not wishing to see the October 21, 2003 Incident fully investigated:

1. The resident inspectors at Callaway Plant investigated the incident in the Spring of 2007 and failed to fully appreciate the significance of it.
2. Ellis Merschoff, the former Regional Administrator of the US NRC's Region IV (i.e. the top guy of the region which currently regulates Callaway Plant) is on the Nuclear Safety Review Board for Callaway Plant and refused to look into the October 21, 2003 Incident when it was brought to his attention in 2007. Although Mr. Merschoff is retired from the US NRC, individuals at Region IV still hold him in high esteem and he certainly maintains contact with some individuals still at the region.
3. All of the individuals directly involved with delaying the insertion of the control banks on October 21, 2003 to cover up the inadvertent reactor shutdown CURRENTLY hold US NRC operating licenses. The US NRC does not know how it will handle allowing operators to maintain their licenses when they suspect (but cannot definitively prove) that the operators acted in an untrustworthy manner.

Region IV wishes to put the October 21, 2003 Incident behind them without ever fully investigating the incident and analyzing the response of the Callaway Plant organization. They hope to do this by claiming that their focus is on the CURRENT practices of Callaway Plant.

Individuals' past actions are indications of their character. If the technical data from the October 21, 2003 Incident indicate (as I assert) that the only explanation for the operators' 106 minute delay in inserting the control banks was they were intentionally trying to mislead plant upper management that the reactor was intentionally shutdown at noon (vice inadvertently shut down at 10:13), then the US NRC will have a deep understanding of the character of the individuals who still hold prominent positions at the Callaway nuclear plant. In 2003, these were individuals who would jeopardize nuclear safety to cover up their mistakes. Regardless of how they have grown since then, their actions in 2003 should be exposed. Although it will never be definitively proven that they intentionally left the control banks withdrawn (i.e. the objective data cannot indicate the operators intentions), an analysis of the objective technical data can show that none of the operators' explanations for the delay have merit.

I submitted my February 28, 2009 letter as a formal ALLEGATION. The next day (March 1, 2009) I submitted a second letter as a formal ALLEGATION. This second letter dealt specifically with how the operating crew successfully misled the US NRC personnel investigating the October 21, 2003 Incident in 2008 into believing that the performance of off-normal procedure OTO-NN-00001 was a significant contributor to the 106 minute delay in inserting the control banks. Despite being submitted over 60 days ago, I have not received a response from the US NRC concerning either of these allegations (their policy is to provide me a response within 30 days).

My two allegations (from February 29th and March 1st of this year) are straight forward and deserve investigation. The US NRC is intentionally avoiding answering them for reasons which I do not understand. I am not the only one who wishes to see this incident properly investigated. At least one other individual still working at Callaway Plant has also been frustrated by the US NRC's lack of resolve to fully investigate the October 21, 2003 Incident.

Because of my settlement agreement with Ameren, I am prevented from enlisting the help of non-government oversight organizations to lobby the US NRC to investigate my concerns. I am limited to working with the US NRC directly and with members of state and federal government. I need your assistance in this manner. It is in the interest of the nation that the US NRC adequately investigate

allegations of wrong doing at our nuclear power plants.

Thank you,

Larry

Lawrence S. Criscione
(573) 230-3959

Lynn Berger

From: NRC Allegation
Sent: Tuesday, May 05, 2009 5:54 AM
To: R4ALLEGATION Resource
Cc: William Jones
Subject: FW: OTO-NN-00001 contribution to October 21, 2003 event - ~~SENSITIVE~~
~~ALLEGATION INFORMATION~~
Attachments: OTO-NN-00001 issue.pdf; Letter to Bill Jones.pdf

Received late yesterday on the NRC Allegation e-mail account. For appropriate action.

Dave Vito

From: Lawrence Criscione [mailto:lsriscione@hotmail.com]
Sent: Monday, May 04, 2009 9:42 PM
To: John Kramer
Cc: NRC Allegation; R4ALLEGATION Resource; R4ALLEGATION Resource; William Jones; anthony.vegel@nrc.gov; Marty Gelfand; Jeanette Oxford; Jeanette Oxford; Gary Olmstead; Houlihan Bill; Anne Wall; Llona Weiss
Subject: FW: OTO-NN-00001 contribution to October 21, 2003 event

Mr. Kramer,

Thank you for taking the time to speak with me today.

I was disappointed to hear that you will not be specifically providing me answers to my 56 items, but I understand that you have been given directions on what to investigate and you can only do what you are told to do.

I am concerned, however, that the US NRC does not appear to be concerned with anything which happened in the past. It is inadequate to only focus on the current performance of Callaway Plant. That is as ludicrous as stating that all that matters now with OJ Simpson is what kind of individual he is today. PAST ACTIONS ARE AN INDICATION OF AN INDIVIDUAL'S TRUE CHARACTER. For whatever reason, the US NRC is unwilling to look at the past actions of Dave Neterer and Dave Lantz. These individuals hold prominent positions at Callaway Plant and their character matters.

Attached to this email is the letter I sent concerning OTO-NN-00001. As you can see from the letter itself and from the email below, I intended for this letter to be investigated as an allegation. For whatever reason, it appears the US NRC is not going to grant that request. Although this letter was submitted over sixty days ago (double the time frame in which your policies state I should receive a response) I have yet to be formally told the US NRC is rejecting this allegation.

If you desire to investigate this allegation while you are at Callaway Plant, Gary Olmstead would be an excellent resource to assist you. Within half an hour you and he could easily step through the procedure and determine what level of effort OTO-NN-00001 placed on the operating crew during the 106 minute time frame that the control banks were left withdrawn with the reactor subcritical on transient Xenon-135.

I've also included my February 28th letter with the 56 items. Gary should be able to assist you in addressing some of these items if you wish to look into them.

Please call me on my cell phone if you have any questions for me. I do not have cell phone reception inside most of the buildings at Beaver Valley, but I will be checking my messages throughout the day.

Thank you,

Larry

Lawrence S. Criscione
(573) 230-3959

From: lscriscione@hotmail.com
To: william.jones@nrc.gov
CC: allegation@nrc.gov; r4allegation@nrc.gov; jmo4rep@juno.com; jeanette.oxford@house.mo.gov;
marty.gelfand@mail.house.gov; amy.powell@nrc.gov; ded@nrc.gov; cdh@nrc.gov;
crystal.holland@nrc.gov; vgg@nrc.gov; ric1@nrc.gov
Subject: OTO-NN-00001 contribution to October 21, 2003 event
Date: Sun, 1 Mar 2009 18:41:47 -0500

Bill,

I am submitting the attached letter as an allegation.

I would like this allegation investigated on its own merits and NOT as part of any other allegation.

I would like it investigated by an individual with an OPERATIONS background. Dave Dumbacher is an acceptable investigator, but it is not my place to dictate to whom you assign this.

I do NOT want this investigated by the licensee.

I do NOT wish to remain confidential.

The attached letter concerns how OTO-NN-00001 specifically contributed to the October 21, 2003 incident. I believe that the licensee has used the appearance of OTO-NN-00001 in the control room logs on October 21, 2003 to confuse the US NRC investigators. Specifically, by referring to OTO-NN-00001 as an item which was being performed by the crew, the licensee has led the US NRC to believe that OTO-NN-00001 contributed to the 106 minute delay in inserting control banks.

Despite my statements in the above paragraph, I do NOT wish the US NRC to investigate the testimonies of Ameren personnel regarding OI Case 4-2007-049. If this must be investigated, then so be it, but do NOT include it with this allegation as it will only confuse the issue.

The purpose of this allegation is to definitively resolve whether or not OTO-NN-00001 contributed to the October 21, 2003 incident. I wish to resolve all confusion as to what Off-Normal actions contributed to the 106 minute delay in inserting the control banks.

Respectfully,

Larry

Lawrence S. Criscione
(573) 230-3959

William Jones

From: William Jones
Sent: Thursday, March 26, 2009 4:19 PM
To: Rossana Raspa
Subject: *** Sensitive Allegation Material -Identifies an allegeder*****

Ms. Raspa

I understand through Lisamarie Jarriel that you are addressing associated concerns raised by a concerned individual. In the below e-mail he requested the IGs contact number which I provided. Although he specified item 10 was to be reviewed by the IG, after discussions with the R4 Deputy Regional Administrator, it was decided that I should provide all 10 as several of these issues speak to concerns with the NRC.

Respectfully

From: lscriscione@hotmail.com
To: william.jones@nrc.gov
CC: llj@nrc.gov; amy.powell@nrc.gov; marty.gelfand@mail.house.gov; bill_houlihan@durbin.senate.gov; llona_weiss@mccaskill.senate.gov; jmo4rep@juno.com; jeanette.oxford@house.mo.gov; katz@kmblegal.com; vgg@nrc.gov; rjc1@nrc.gov; allegation@nrc.gov; r4allegation.resource@nrc.gov; r4allegation@nrc.gov
Subject: FW: NRC policy allows Nuclear Industry to "buy off" whistleblowers
Date: Sun, 1 Mar 2009 12:51:12 -0500

Mr. Jones,

The email trail below provides much of the background for the allegation I wish to make to you. There are also two documents attached to this email which provide additional background information.

During our December 5, 2008 conference call you re-iterated to me that it was US NRC policy not to investigate retaliation complaints which were either settled through the formal ADR process or were privately mediated in a similar process. During that conference call I requested that I be provided the US NRC policy which prohibits Region IV from investigating my retaliation complaint (RIV-2007-A-0093). I never received feedback on whom to contact to obtain a copy of that policy.

I am writing this email to allege the following:

1. My settlement with Ameren corporation reached through private mediation has NOT affected the Safety Culture at Callaway Plant. Specifically, the individual whom I claimed discriminated against me (Dave Neterer) has since been **promoted from Operations Manager to Plant Director**. The promotion of Mr. Neterer is validation to me that Ameren does not believe Dave Neterer engaged in unlawful retaliatory practices against me for addressing safety concerns. Since Ameren does not recognize that unlawful retaliatory practices occurred, Ameren is not able to make the changes to its management practices to prevent similar occurrences in the future.
2. On a personal level, the individual (Dave Neterer) who retaliated against me has not suffered any punishment for his actions. The settlement paid to me was not paid personally by Mr. Neterer; the settlement was paid by Ameren corporation. Since Ameren corporation is just a paper entity, my settlement was actually paid by either the rate payers or share holders of Ameren (I would like to know which group ultimately had the cost of my settlement passed onto them). Since Mr. Neterer did not have to financially contribute to my settlement and since he has been financially rewarded with a promotion since my settlement was reached, I do not believe that Mr. Neterer has any incentive to change his retaliatory management practices.
3. The US NRC's practice of not investigating retaliation complaints which were settled through private mediation results in the better documented allegations not being investigated. By not

investigating the better documented allegations, the results of the Allegation Process become skewed in favor of the utility's Safety Culture.

4. Utilities are more likely to agree to acceptable settlements with individuals who have well documented retaliation complaints (I would like the US NRC to either acknowledge this statement or provide evidence to refute it).
5. The practice of not investigating complaints for which a settlement was reached results in the US NRC not investigating the better documented complaints (I would like the US NRC to either acknowledge this statement or provide evidence to refute it).
6. By not investigating the better documented complaints, the results of the US NRC's Allegation Process are skewed in the sense that a higher percentage of retaliation complaints are "not substantiated" than would occur if the better documented complaints were included (I would like the US NRC to either acknowledge this statement or provide evidence to refute it).
7. Since an inaccurately high percentage of retaliation complaints are "not substantiated", problems with the utility's Safety Culture are not accurately portrayed (I would like the US NRC to either acknowledge this statement or provide evidence to refute it).
8. The US NRC has a practice of assessing a utility's Safety Culture through "on-site" interviews with the utility's staff. Although the majority of the utility's staff are willing to document safety concerns, the mere documentation of a safety concern via a condition report is very different from being willing to forcefully challenge plant management when a safety concern is not being appropriately addressed. Just because a large percentage of workers feel comfortable writing condition reports does not mean that individuals who inconveniently challenge their management's response to safety concerns are not discriminated against. The "on-site" interviews conducted by the US NRC merely assess the average worker's willingness to "pose the question" not to aggressively "pursue the answer". Even if employees are asked about "pursuing the answer", unless they have done it, their response is meaningless.
9. Most employees who answer Safety Conscious Work Environment surveys have actually never directly challenged plant management on a safety concern which they believe was inappropriately addressed and needed to be re-opened. If the US NRC cannot assess the validity of this statement then it needs to ensure utility's SCWE surveys ask the necessary questions to specifically determine how deeply involved the individual answering the survey questions has been in the Corrective Action Program (i.e. has the individual merely written condition reports or has the individual had to meet with the plant's upper management to address condition reports which were not adequately investigated).
10. The settlement agreement I signed with Ameren specifically states that I did not have to withdraw any allegation which I had made to the US NRC. There is no policy which prevents Allegation RIV-2007-A-0093 from being investigated. If desired, the US NRC could legally investigate Allegation RIV-2007-A-0093 despite the fact that I signed a settlement agreement with Ameren.

I do not wish for any of the above concerns to be investigated by the licensee.

I do not require that the US NRC keep my identity confidential.

It is acceptable to me that the US NRC share this allegation and any results from it with the staff of any state or federal elected official who inquires about it and specifically with the personnel copied on this email (if any of them so request).

I do not want item 10 investigated by Region IV. I do not know enough about the structure of the US NRC to state whom should investigate item 10. If there is an office of the Inspector General which specifically investigates the operation of the US NRC, then I would like to be provided a contact with someone in that office. Any advice as to whom I should forward item 10 to would be appreciated.

Thank you for your assistance,

Larry

Lawrence S. Criscione
(573) 230-3959

From: lscriscione@hotmail.com
To: dundon@kmblegal.com
CC: banks@kmblegal.com; katz@kmblegal.com
Subject: FW: NRC policy allows Nuclear Industry to "buy off" whistleblowers
Date: Wed, 17 Sep 2008 18:11:39 -0400

Hi Maura,

It was good talking to you today. Immediately below is an email I sent to Marty Gelfand on Friday, after I met with him. When I spoke to Dennis Kucinich's office, I specifically told them I needed to meet with a lawyer. Although Marty is Dennis' lawyer and not my own, I only showed him my agreement for the purpose of obtaining legal advice. Specifically, I had written a letter to Dennis Kucinich (attached to this email) which I wanted Marty to review first, to ensure it did not violate my settlement agreement. Marty's opinion (which he qualified was "not legal advice" since he is not my attorney) was that my letter did not violate my settlement agreement.

On December 12, 2007 I had a lengthy phone conversation with Harry Freeman regarding the dropping of my discrimination complaint. The December 12 email to Bill Houlihan (included in the trail below) was written after that phone conversation. Bill Houlihan works for Senator Dick Durbin. rjc1 is Roy Caniano and vgg is Vince Gaddy, both of Region IV of the NRC. Harry Freeman is r4allegation. I told you on the phone today that Harry Freeman informed me over the phone that my retaliation complaint was not going to be investigated. Actually, I did receive this notification in writing - I cannot find it here in Akron though. If you would like a copy, let me know and I will send you one when I next return to Illinois.

As I state in the last line of my email to Bill Houlihan, I believe the NRC's policy of not investigating complaints which are financially settled in the Accelerated Dispute Resolution (ADR) process is allowing companies like Ameren to continue retaliatory practices unabated. I am happy with the representation which KMB Legal provided me last autumn. When I signed my agreement last November, I believe Ameren knew the NRC would not be investigating my complaint. I believe that Ameren's intention in settling with me was essentially to "buy" its way out of a NRC investigation. I did not recognize this at the time, and I do not fault KMB Legal for not recognizing this. At the time, I believed I was only being "bought" out of my Department of Labor complaint.

I hope everything is going well for you guys.

Larry

From: lscriscione@hotmail.com
To: marty.gelfand@mail.house.gov
Subject: NRC policy allows Nuclear Industry to "buy off" whistleblowers
Date: Fri, 12 Sep 2008 15:16:26 -0400

Marty,

Thank you for meeting with me today. Below is an email trail regarding the Nuclear Regulatory Commission's refusal to investigate my allegation that I was discriminated against at the Callaway nuclear plant for attempting to address safety concerns.

The issue is summarized in the December 12, 2007 email to Bill Houlihan. Also in the trail below is the contact information for (b)(7)(C) and (b)(7)(C) who are the other individuals I know of who received settlements from Ameren.

Larry

From: lscriscione@hotmail.com
To: bill_houlihan@durbin.senate.gov
Subject: RE: Safety Conscious Work Enviroment at the Callaway Nuclear Plant
Date: Thu, 6 Mar 2008 17:00:10 -0500

Thanks for the update.
Larry

Subject: RE: Safety Conscious Work Enviroment at the Callaway Nuclear Plant
Date: Thu, 6 Mar 2008 11:17:32 -0500
From: Bill_Houlihan@durbin.senate.gov
To: lscriscione@hotmail.com

He has not signed off yet I'm hoping to talk with the Senator this weekend.

Thanks - BILL

From: Lawrence Criscione [mailto:lscriscione@hotmail.com]
Sent: Wednesday, March 05, 2008 4:58 PM
To: Houlihan, Bill (Durbin)
Subject: FW: Safety Conscious Work Enviroment at the Callaway Nuclear Plant

Mr. Houlihan,

What was Senator Durbin's decision regarding my request that he ask the Nuclear Regulatory Commission to investigate my retaliation complaint?

Larry

Lawrence S. Criscione

If you send me something needing my attention, please call me at (573) 230-3959 and leave me a message to check my account.

From: lscriscione@hotmail.com
To: bill_houlihan@durbin.senate.gov
CC: r4allegation@nrc.gov; rjc1@nrc.gov; vgg@nrc.gov
Subject: FW: Safety Conscious Work Enviroment at the Callaway Nuclear Plant
Date: Wed, 12 Dec 2007 17:46:30 -0500

Mr. Houlihan,

Since I met with you on October 26, my employment with Ameren has ended.

On November 9 I attended a dispute resolution meeting with Ameren in Washington, DC. At that meeting, I was offered a financial settlement in exchange for resigning from my position at the Callaway Nuclear Plant. I was informed by my attorneys that the agreement would preclude me from pursuing my retaliation claim with the US Department of Labor but it would not preclude me from pursuing resolution to my claim with the US Nuclear Regulatory Commission.

My attorneys assured me the amount of compensation being provided to me was a fair settlement for my claim and

urged me to take the settlement, which I did. Under strict penalties, I am required to keep even the existence of this agreement confidential, so please do not forward this information to anyone who is not either within the US NRC or associated with the staff of a member of Congress.

I did not file an allegation of retaliation with the Nuclear Regulatory Commission in order to fleece Ameren out of XXXXXXXX dollars. I filed my claim because I was concerned about the Safety Conscious Work Environment at the Callaway Nuclear Plant.

I believe that upper management in the Operations Department at the Callaway Nuclear Plant retaliated against me for bringing forth safety concerns. I further believe that when my complaint of retaliation was brought forward to the Employee Concerns Program, it was intentionally ignored by the upper management of the Callaway Nuclear Plant.

The compensation paid to me in no way discourages similar behavior in the future at the Callaway Nuclear Plant; it is an amount which is produced every day before noon by the sale of the electricity generated at Callaway. Ameren can write off settlements such as mine as minor business expenses; well worth the cost for getting rid of "trouble makers".

Today I received a letter from Harry Freeman, the Senior Allegation Coordinator of Region IV of the United States Nuclear Regulatory Commission. In the letter, Mr. Freeman informed me that because of my settlement agreement with Ameren, my discrimination complaint would be closed with no further action.

I vehemently disagree with the closing of my discrimination complaint. At no point was it communicated to me that by accepting a settlement from Ameren I would be relinquishing investigation of my discrimination allegation by the US Nuclear Regulatory Commission.

As the reactor melt downs in Michigan and Pennsylvania in the 1970s demonstrate, operating a nuclear power plant is serious business. Although Professional Engineers at nuclear plants are required to address safety concerns which they encounter, it is an extremely difficult decision to pursue the right path when one knows one's career and the ability to support one's family may be jeopardized.

I have suffered greatly for doing my duty at Ameren. I am currently unemployed and my closest job prospect (which has not yet resulted in an offer) is an eight hour drive from (b)(7)(C). The confrontation between me and my employer has been particularly unnerving to (b)(7)(C).

In nuclear power, the self sustaining nature of the fission reaction and the radioactivity of the fission products create inherent risks. Because of these risks, the operation of commercial reactors cannot be entrusted to just anyone. We (the United States) fund the Nuclear Regulatory Commission to ensure the operators of commercial reactors are properly adhering to strict standards of conduct. By its own admission, the US NRC is not capable of performing its role without the support of plant personnel who are willing and able to address safety concerns. Allowing utilities to cheaply get rid of "trouble makers" who are willing to challenge their inappropriate decisions significantly undermines the safe operation of commercial reactors.

If possible, I would like to meet with you either this week or next. I am currently in Missouri attempting to finish a remodeling project on the Jefferson City duplex where I lived during the work week while working at Callaway. I intend to come to Springfield on Friday (December 14), but I can come earlier if you are available to meet. I was planning on spending next Monday and Tuesday (December 17 & 18) in Springfield before returning to Missouri to work on getting my property on the market. Please call me at (573) 230-3959 and let me know what date and time is convenient for you.

At our meeting, I wish to discuss the options available for ensuring my discrimination complaint is appropriately investigated. Additionally, I would like to discuss my settlement agreement with you and explain why the other individuals I informed you about during our previous meeting are reluctant to come forward. There is a pattern of retaliation at the Callaway Nuclear Plant and the US Nuclear Regulatory Commission's policy of not investigating complaints which are financially settled in the Accelerated Dispute Resolution (ADR) process is allowing this retaliation to continue unabated.

I look forward to hearing from you.

Merry Christmas,

Larry

Lawrence S. Criscione

If you send me something needing my attention, please call me at (573) 230-3959 and leave me a message to check my account.

From: lscriscione@hotmail.com
To: bill_houlihan@durbin.senate.gov
CC: (b)(7)(C)
Subject: FW: Safety Conscious Work Enviroment at the Callaway Nuclear Plant
Date: Mon, 29 Oct 2007 10:05:21 -0400

Mr. Houlihan,

(b)(7)(C) was terminated during the (b)(7)(C) (may have been early autumn) and recently reached a settlement with Ameren. He is still concerned with the Safety Conscious Work Environment at the Callaway Nuclear Plant, but, like (b)(7)(C) fears that any additional pursuit to change that culture will result in reprisal from Ameren. Although speaking with the staff of a United States Senator is protected activity, a frivolous law suit from Ameren would cause (b)(7)(C) legal expenses which he cannot bear.

Any information (b)(7)(C) can provide can also be obtained under the Freedom of Information Act. (b)(7)(C) case was 5 USC S 552 - Case No. (b)(7)(C)

If your office would request this case, it would provide some insight into the Safety Culture at Callaway Plant.

Thank you for your assistance,

Larry Criscione

From: (b)(7)(C)
To: lscriscione@hotmail.com
Subject: Re: Safety Conscious Work Enviroment at the Callaway Nuclear Plant
Date: Sun, 28 Oct 2007 22:38:03 -0600

Larry -

I would be willing to discuss issues within the terms of the agreement that I have between myself and AMERENUE. I would not want to incur any additional legal fees, so I would ask that the individuals who want to talk with me agree to pay for any additional legal fees that I might see due to meetings with other interested personnel.

I can offer the following information, which is available under the FOIA process per 5 USC S 552 - Case No. (b)(7)(C)

This avenue should provide insight regarding my concerns, without causing extensive involvement on my part at this point.

Let me know what I can do to be of assistance to ensure a SCWE truly exists at all levels at Callaway.

(b)(7)(C)

----- Original Message -----

From: Lawrence Criscione

To: Gary Olmstead (b)(7)(C)
Cc: Houlihan Bill
Sent: Friday, October 26, 2007 4:32 PM
Subject: FW: Safety Conscious Work Environment at the Callaway Nuclear Plant

Gentlemen,

I met with Mr. Houlihan from Senator Durbin's office today. The original intent of the meeting was to address the NRC's response to some allegations I had raised. Mr. Houlihan brought up the subject of whether I had been retaliated against. I informed him that I had, but that that issue was still an active investigation which I am willing to allow the NRC a chance to appropriately address. He then asked whether others had been retaliated against in the past. I informed that there was past retaliation against employees who brought forward safety concerns.

Mr. Houlihan asked that I have other people who have been retaliated against contact him. He seemed to prefer that the constituents of Senator McClaskill contact her office and that they (Senators Durbin and McClaskill's staffs) work together to address this issue. I received the sense that since Callaway is in Missouri he wanted to, as a courtesy, get Senator McClaskill's staff involved.

Mr. Houlihan's email address is in the "To:" field of the email below if you wish to contact him. He can put you in touch with the appropriate people in Senator McClaskill's office. He seemed very interested in ensuring Ameren develops and maintains a work environment free of retaliation.

As you can see from the email below, (b)(7)(C) was not comfortable making initial contact with Mr. Houlihan. If you (b)(7)(C) are not comfortable contacting him directly, I can pass (b)(7)(C) information on to him. I have (b)(7)(C) phone number but not her email. Please feel free to forward this email on to her.

Mr. Houlihan's office number is (217) 492-4062 but because of his travel schedule he is most easily contacted via email.

Thank you,

Lawrence S. Criscione

From: lscriscione@hotmail.com
To: bill_houlihan@durbin.senate.gov
CC: bfigg@hendrenandrae.com
Subject: Safety Conscious Work Environment at the Callaway Nuclear Plant
Date: Fri, 26 Oct 2007 17:26:38 -0400

Mr. Houlihan,

Thank you for meeting with me today regarding my concerns with the US Nuclear Regulatory Commission and the Callaway Nuclear Plant.

You asked me if there were other individuals who would be willing to speak with you or Senator McCaskill's staff. I just spoke with (b)(7)(C) was the (b)(7)(C) at Callaway Plant until late 2005 when he (b)(7)(C) reached a settlement with Ameren and is not allowed to speak to me about the particulars of his case. If his settlement allows it, he would like to speak with you though.

(b)(7)(C) asked that you contact his attorney, Beverly Figg, at (573) 636-8135 if and when you wish to speak with him. (b)(7)(C) was deeply involved with the Corrective Action Process at the Callaway Nuclear Plant and the establishment of a Safety Conscious Work Environment.

Please pass Ms. Figg's contact information along to whomever may be involved in investigating the retaliation against whistle blowers at Callaway Plant.

Larry Criscione

Bernadette Baca

From: Lawrence Criscione [lscriscione@hotmail.com]
Sent: Friday, April 03, 2009 10:31 AM
To: Bernadette Baca; R4ALLEGATION Resource; William Jones
Subject: FW: OTO-NN-00001 contribution to October 21, 2003 event
Attachments: OTO-NN-00001 issue.doc; OTO-NN-00001 issue.pdf

Bernadette,

I'm done with my doctor's appointment. Please call me at (573) 230-3959 when you get a chance.

My wife told me I had a letter from you, but I do not recall which issue it was concerning. Please email me any letters you send to my home; I do not make it home that often and my wife is not agreeable to assisting me in addressing the remaining concerns which I have from my time at Callaway Plant.

Also, please involve me in your investigation of these issue this time. I would prefer to not find out about your efforts months after they occur and realize that you allowed merely accepted lies and half-truths from the utility in order to close the allegations.

Thank you,

Larry

Lawrence S. Criscione
(573) 230-3959

From: lscriscione@hotmail.com
To: william.jones@nrc.gov
CC: allegation@nrc.gov; r4allegation@nrc.gov; jmo4rep@juno.com; jeanette.oxford@house.mo.gov; marty.gelfand@mail.house.gov; amy.powell@nrc.gov; vgg@nrc.gov; rjc1@nrc.gov
Subject: FW: OTO-NN-00001 contribution to October 21, 2003 event
Date: Fri, 3 Apr 2009 02:07:05 -0400

Bill,

What is the status of this issue?

Larry

Lawrence S. Criscione
(573) 230-3959

From: lscriscione@hotmail.com
To: william.jones@nrc.gov
CC: allegation@nrc.gov; r4allegation@nrc.gov; jmo4rep@juno.com; jeanette.oxford@house.mo.gov; marty.gelfand@mail.house.gov; amy.powell@nrc.gov; ded@nrc.gov; cdh@nrc.gov; crystal.holland@nrc.gov; vgg@nrc.gov; rjc1@nrc.gov
Subject: OTO-NN-00001 contribution to October 21, 2003 event
Date: Sun, 1 Mar 2009 18:41:47 -0500

Bill,

I am submitting the attached letter as an allegation.

I would like this allegation investigated on its own merits and NOT as part of any other allegation.

I would like it investigated by an individual with an OPERATIONS background. Dave Dumbacher is an acceptable investigator, but it is not my place to dictate to whom you assign this.

I do NOT want this investigated by the licensee.

I do NOT wish to remain confidential.

The attached letter concerns how OTO-NN-00001 specifically contributed to the October 21, 2003 incident. I believe that the licensee has used the appearance of OTO-NN-00001 in the control room logs on October 21, 2003 to confuse the US NRC investigators. Specifically, by referring to OTO-NN-00001 as an item which was being performed by the crew, the licensee has led the US NRC to believe that OTO-NN-00001 contributed to the 106 minute delay in inserting control banks.

Despite my statements in the above paragraph, I do NOT wish the US NRC to investigate the testimonies of Ameren personnel regarding OI Case 4-2007-049. If this must be investigated, then so be it, but do NOT include it with this allegation as it will only confuse the issue.

The purpose of this allegation is to definitively resolve whether or not OTO-NN-00001 contributed to the October 21, 2003 incident. I wish to resolve all confusion as to what Off-Normal actions contributed to the 106 minute delay in inserting the control banks.

Respectfully,

Larry

Lawrence S. Criscione
(573) 230-3959

FW Need Help Addressing the US NRC 4-8-09.txt

From: William Jones
Sent: Wednesday, April 08, 2009 4:38 PM
To: R4ALLEGATION Resource
Subject: FW: Need Help Addressing the US NRC
Attachments: Letter_to_Bill_Jones.pdf; October_21,_2003_Incident.PDF

From: Lawrence Criscione [mailto:lscriscione@hotmail.com]
Sent: Wednesday, April 08, 2009 3:40 PM
To: victor.edgerton@mail.house.gov
Cc: Ingrid Drake; Jeanette Oxford; Jeanette Oxford; Marty Gelfand; William Jones; Amy Powell
Subject: Need Help Addressing the US NRC

Victor,

Your name was given to me by Dave Lochbaum when he was still with the Union of Concerned Scientists (see the email below). I wasn't able to make contact with you back in September but since then I have met on several occasions with Marty Gelfand.

The attached letter concerns an incident which occurred at the Callaway nuclear plant on October 21, 2003 which the US NRC has not adequately addressed. I discussed this letter on March 3, 2009 with Marty Gelfand.

The October 21, 2003 Incident is a little complicated. At our March 3, 2009 meeting I requested that, if appropriate, Congressman Kucinich write a letter to the US NRC requesting that I be provided answers to the 56 items in the attached letter. I am not asking that Congressman Kucinich vouch, in any way, for the legitimacy of my concerns. All I am asking is that Congressman Kucinich inform the US NRC that I deserve answers to my question (this is the fourth letter I have sent to the US NRC and I have yet to have any of my questions directly answered AND on Monday of this week - 4/6/2009 - I was told by Bill Jones of the US NRC Region IV that he does not think he will be providing answers to my February 28, 2009 letter).

The US NRC is meeting on Monday, April 13, 2009 to discuss my February 28, 2009 letter. I realize that, at this point, it would be difficult for Congressman Kucinich to send a letter before there meeting.

As you probably know, Marty (b)(7)(C) and has not been able to assist me.

Please give me a call at (573) 230-3959 if you have any questions concerning the attached letter. Again, I am not asking that the Congressman vouch for my statements; I am merely asking that he inform the US NRC that they need to take the time to address my remaining concerns.

Ingrid Drake at POGO has recently been assisting me in getting answers from the US NRC as

FW Need Help Addressing the US NRC 4-8-09.txt
well as Representative Jeanette Oxford of the Missouri House of Representatives.
Both of
them are copied on this email. Also copied on this email is Bill Jones, the
Allegation
Coordinator for the US NRC Region IV which regulates the Callaway nuclear plant, and
Amy
Powell who is a US NRC Congressional liason.

Also attached to this email is an 18 page document which provides background on the
October 21, 2003 Incident.

If you will not be acting on my request, please let me know. I do not think I will
be able to
get adequate answers from the US NRC without the assistance of federal elected
officials. If
you do not believe Congressman Kucinich is interested in this issue, I would
appreciate it if
you could direct me to a Congressional staffer who is currently working on these
types of
concerns (i.e. concerns with how the US NRC regulates the commercial nuclear
industry and
handles whistleblower complaints).

Thank you,

Larry

Lawrence S. Criscione
(573) 230-3959

> Date: Tue, 16 Sep 2008 10:13:07 -0400
> From: dlochbaum@ucsusa.org
> To: lscriscione@hotmail.com
> Subject: Re: Congressmen and Senators concerned about nuclear safety
>
> Larry:
>
> Richard Miller is on the staff of the House Commerce Committee, headed by
Congressman
Dingel and Stupak. Richard's e-mail is richard.miller@mail.house.gov
>
> Will Huntington is a fellow on the staff of Congressman Edward Markey. Markey's
long
been able to induce action at NRC via a range of tools from letters to the Chairman,
letters
to the NRC's Inspector General, and Government Accountability Office investigations.
In
recent years, Markey's office helped when security officers at South Texas Project
sought
help when the company and the NRC was non-responsive to their concerns. Will's
e-mail is
will.huntington@mail.house.gov
>
> Victor Edgerton is on the staff of Congressman Kucinich, who chairs the House
Government Reform (or Investigation) Committee. I don't have Victor's e-mail
address.
>
> I've worked with all three, so feel free to mention that I suggested you contacted
them.
>
> Thanks,
> Dave Lochbaum
> UCS
>

FW Need Help Addressing the US NRC 4-8-09.txt

> >>> Lawrence Criscione <lscriscione@hotmail.com> 9/12/2008 10:27 PM >>>

> Dave,

>

> I am concerned about the NRC's handling of Allegations RIV-2007-A-0028 and RIV-2007-A-0093. Who are some good Congressional contacts with whom I might address my concerns?

>

> Allegation RIV-2007-A-0093 was not investigated by the NRC due to the Department of Labor aspects of it being resolved during a private dispute resolution process. Unfortunately the NRC's policy of not investigating Harassment allegations, for which the financial component has been settled in arbitration, essentially amounts to allowing utilities to buy their way out of allegations on the rare occasions when the whistle blower has a strong case.

>

> Allegation RIV-2007-A-0028 was simply not thoroughly investigated by the NRC. Specifically, the NRC did not look into the watch stander integrity issues. I do not understand why.

>

> There are deeper aspects of these two allegations which I would like to discuss with you, but for legal reasons I am unable to state more than I have already stated. However, I have much more latitude to discuss my concerns with members of Congress and their staffs.

>

> I would appreciate it if you could provide me with the names of all Members of Congress who are legitimately concerned with either protecting the rights of whistle blowers or with overseeing the NRC's handling of nuclear safety issues. I believe that in your position you may have insight into who is honestly concerned with the issue and who is just a poser.

>

> If you need additional information, please call me at (573) 230-3959.

>

> Thank you for your efforts in ensuring our nations nuclear power plants are operated safely, Larry Criscione

>

October 21, 2003 Incident at the Callaway Nuclear Plant

§1.0 Purpose and Summary

§1.1 Purpose:

This essay is being written to summarize the safety concerns surrounding the October 21, 2003 shutdown at the Callaway Nuclear Plant and how failure to address those concerns jeopardizes the safe operation of our nation's commercial nuclear power plants.

Section 5.0 on *Physical and Operational Concepts*, was written for politicians and members of their staffs who do not have an in-depth technical background in the operation and regulation of nuclear power plants. Individuals, who do not understand all the terms used in the Summary statement below, might find it helpful to review section 5.0.

§1.2 Summary:

On October 21, 2003 the reactor at Callaway Plant was required to be shut down by 1321 (1:21 pm) to comply with a Tech Spec Action Statement. At 1014 (10:14 am), during a plant transient, the reactor plant went subcritical while the operators were responding to an isolation of the Letdown system.

There is strong indication that the operating crew did not intend to shutdown the reactor at 1014 and did not immediately notice that the reactor had become subcritical. For 110 minutes the reactor control rods remained withdrawn, with the reactor slightly subcritical, while the operating crew performed non-emergency surveillance test procedures and non-emergency "off-normal" tasks.

There is strong indication that the operating crew left the control banks withdrawn in order to cover up the transient which had caused the isolation of the Letdown system. The 110 minute delay in inserting the control banks was not uncovered until February 2007. When brought to the attention of Ameren Management, all levels of management avoided addressing the issue and permitted retaliatory practices to be implemented against the individual attempting to investigate the October 21, 2003 shutdown.

The US Nuclear Regulatory Commission investigated the October 21, 2003 incident under OI case #4-2007-183 but refused to evaluate the activities which the operators claimed prevented them from inserting the control banks and refused to evaluate the evidence of retaliatory practices against the individual attempting to internally address the incident.

§2.0 October 21, 2003 Event Description

During the morning of October 21, 2003, Callaway Plant was performing a required shutdown due to a failed safety related electrical component. The plant's Technical Specifications required it to be shutdown by 1321 (1:21 PM). Personnel from Electrical Maintenance were actively attempting to repair the failed equipment throughout the morning. The operating crew was to maintain the reactor critical as long as it appeared repair and retest of the broken electrical equipment would occur prior to 1321.

At 0938 (9:38 AM) with the plant at 8% reactor power, a secondary plant transient began due to mis-operation of the steam line drains. Over the next 25 minutes, the reactor coolant temperature lowered 10°F, causing Pressurizer water level to fall below the automatic Letdown isolation set point (17%) at 0959. Also because of the temperature transient, from 1000 to 1013 the reactor was operated below the Minimum Temperature for Criticality.

At 1013 the turbine was tripped by the operators to aid in the restoration of reactor coolant temperature. Reactor power was at 4.9% - close enough to the Point of Adding Heat for temperature feedback to reactivity to be degraded.

Due to mis-operation of the Condenser Steam Dumps, reactor coolant temperature rose 3°F in the minute following the turbine trip. The 3°F rise in reactor coolant temperature resulted in a negative reactivity insertion which caused the reactor to shutdown at 1014.

There is indication the operators did not initially recognize the reactor had shutdown:

- In the minutes immediately following 1014 they took no action to maintain reactor power above the Point of Adding Heat.
- As reactor power lowered to 10^{-8} ion chamber amps, they took no action to stabilize reactor power and take the procedurally required shutdown data.
- They did not intentionally add any negative reactivity (i.e. insert the control rods or add boron) until 110 minutes following the turbine trip.
- They did not log the reactor shutdown and the failure to take the 10^{-8} ica data.

Following the reactor shutdown, the operating crew maintained the control banks withdrawn for over 100 minutes while they performed non-emergency tasks.

There is indication the operators intentionally left the control banks withdrawn to cover up the inadvertent reactor shutdown from plant upper management:

- Plant upper management was not informed the reactor had shutdown at 1015. Plant upper management was under the impression that the reactor was still critical at noon and was not shutdown until the operators began inserting the control banks at 1204.
- None of the entries in the Shift Manager's Log between the time the turbine was tripped (1012) and the time control banks were inserted (1204) explain the 100 plus minute delay for the insertion of the control banks.

- The operators failed to document the secondary plant transient in the Callaway Action Request System as required by procedure.
- The operators failed to document the failure to take the 10^{-8} ica data.
- The operators failed to document the operation of the reactor below the Minimum Temperature for Criticality in both the Callaway Action Request System and the Shift Manager's Log as required by procedure.

§3.0 Inadequate Response of the US Nuclear Regulatory Commission to the October 21, 2003 Incident

On March 2, 2007 the October 21, 2003 incident was brought to the attention of the US Nuclear Regulatory Commission. The US NRC investigated the incident and determined that the 100 minute delay in inserting control rods was *"not prudent and did suggest that the operators may not have exercised optimum reactivity management and may not have had adequate plant awareness."* However, the US NRC refused to take any action against the licensed operators because there was no time limit provided in the operating procedures for inserting the control rods.

Once the Control Room Supervisor has realized the reactor is shutdown, inserting the control banks is a simple process. For the CRS it literally involves merely giving an order to the Reactor Operator to insert the control banks. At all commercial nuclear plants, the operators are authorized, without performing any administrative burden, to insert the control banks to shutdown the plant when criticality is unrecoverable. No calculations are required. No briefs are necessary. **It is the expectation of the US NRC and the utility that the operators will take action to place the reactor in a controlled shutdown position and not rely on unanalyzed transients to prevent an inadvertent return to criticality.**

For the Reactor Operator, inserting the control banks on a shutdown plant is a simple process. At Callaway Plant, it literally involves two hand motions: placing the rod selector switch in manual and pushing the rod control switch in the insert direction.

Once it has been realized the reactor is shutdown, there should be nothing that delays the operating crew from inserting the control banks. No surveillance or test procedures take priority over control bank insertion. If plant conditions are so severe that the Reactor Operator cannot be spared to insert the control banks, then the control rods should be tripped.

Once it has been realized the reactor is shutdown, a five minute time frame is more than enough time to begin control bank insertion. For NRC licensed operators to claim they were too busy to promptly insert the control banks is ludicrous. Inserting the control banks on a shutdown reactor is a fundamental action which is simple to perform. Once the decision has been made to shutdown the reactor, the operators have no higher priority than to ensure the reactor is positively shutdown. If any events in the control room are preventing the operators from driving in the control banks, then the control rods should be tripped into the core.

For the US NRC to not address the competency (or integrity) of operators, who delayed insertion of the control banks for over an hour, because the US NRC inspector's *"review of operating procedures did not find any timeliness guidance on performing the steps to insert the control rods"* is also ludicrous. **Callaway Plant's operators should not be given a pass because their procedures lacked proper guidance.** If the US NRC believes *timeliness guidance on performing the steps to insert the control rods* is necessary, then not only should the operators be held accountable for their inadequate *reactivity management*, but Callaway Plant management should be held accountable for allowing inadequate procedures to be written for its operators.

§4.0 Preserving the Safety Culture

§4.1 Origins of the Safety Culture

In nuclear power, lessons have been learned the hard way – through deaths, explosions, fires and meltdowns.

Many of the physicists, whose work in the first half of the 20th Century led to the understanding of nuclear energy, died from leukemia and related cancers. Nuclear weapons researchers in the 1940's perished from acute radiation exposure. Experimental reactors exploded in prompt criticality accidents or suffered equipment failures which resulted in core meltdowns. In the United States, two commercial reactors have had core meltdowns due to a combination of equipment failures and operator error. Overseas, a large commercial reactor exploded in a prompt criticality accident caused by poor design and human error, resulting in the deaths of dozens of people from acute radiation sickness and the permanent displacement of over 300,000 people.

The result of these hard learned lessons is the nuclear "Safety Culture". This Safety Culture has several key pillars, cemented together by the most important attribute – a "Safety Conscious Work Environment".

§4.2 The Corrective Action Process

With its beginnings in the corridors of the top secret nuclear weapons laboratories and its refinement by Admiral Rickover's nuclear navy and NASA, a process of "Problem Identification and Resolution" has become a cornerstone of the Safety Culture. In the commercial nuclear industry, the process of Problem Identification and Resolution (PI&R) is implemented as the "Corrective Action Program".

The Corrective Action Program (CAP) is the process by which events and errors are analyzed so that corrective actions can be implemented to prevent recurrence. It ensures that organizations, entrusted by the public to operate nuclear reactor plants, have a systematic process to **learn from internal and external mistakes in order to prevent future events** or minimize their impact (you cannot prevent an Act of Nature, but you can minimize the impact it has on your plant).

§4.3 Conservative Decision Making

"Conservative Decision Making" is another cornerstone of this Safety Culture. Attributes of Conservative Decision Making are:

- **Unanalyzed risks are not taken** when operating a large commercial reactor.
- Complex evolutions are conducted in a controlled manner.
- The nuclear fission reaction is always **actively controlled**.
- When a reactor plant shuts down due to a transient, **active measures are taken**, in a timely manner, to ensure it remains shutdown.

§4.4 Safety Conscious Work Environment

A "Safety Conscious Work Environment" is the mortar, without which an organization cannot build a solid Safety Culture. Technical employees must feel confident that they can voice dissention with their superiors without impacting their careers. **Fear of retaliation will poison the Safety Culture.** Events cannot be properly documented and analyzed when employees worry that their blunt assessments will offend superiors who might retaliate against them. Conservative Decisions will not be made when operators worry that they may suffer retaliation for making decisions which might have negative financial implications.

§4.5 Undermining the Safety Culture

It is important that our nation's commercial nuclear utilities embrace and internalize the Safety Culture. It is the job of the US Nuclear Regulatory Commission to ensure that nuclear utilities embrace this Safety Culture **proactively**, without having to learn its value by experiencing the hard lessons of the past. The US NRC's response to the October 21, 2003 incident at the Callaway nuclear plant undermines the Safety Culture.

§4.5.1 Undermining the Corrective Action Process

On October 21, 2003 at the Callaway nuclear plant mis-operation of the steam line drains caused a severe reactor coolant temperature transient which resulted in the isolation of the Letdown system due to low Pressurizer water level. The operating crew failed to document this transient in the Corrective Action Program. When asked why the transient was not documented, the Shift Manager claimed that "Our threshold for documentation was not where it should have been 4 years ago." Shift Managers are leaders in the organization. To not hold the leaders of the organization accountable for their lax standards severely undermines the Problem Identification and Resolution Process.

The US Nuclear Regulatory Commission has a duty to aggressively investigate allegations of utilities covering up incidents. **The standard of proof should be on the utility.** If the utility claims their "threshold" for documenting transients in the Corrective Action Program was too low, then they should be able to show examples of when similar transients occurred but were not documented. If the utility cannot provide any examples, then the US NRC should assume the specific incident met the threshold but was **intentionally** not documented.

§4.5.2 Undermining the Safety Conscious Work Environment

Individuals, who retaliate against subordinates who have documented adverse incidents, severely undermine the Safety Conscious Work Environment and cannot be allowed to hold leadership positions at nuclear utilities. The US Nuclear Regulatory Commission has a duty to aggressively investigate allegations of utilities retaliating against whistleblowers. **The standard of proof should be on the utility.** The utility should be forced to show that any adverse action taken against an individual, who brought forward a safety concern, would have

been taken against that individual regardless of his/her participation in the addressing of safety concerns.

It is currently the policy of Region IV of the US NRC to not investigate whistleblower allegations of retaliation if a settlement is mediated between the whistleblower and the utility. This policy essentially amounts to allowing utilities to "buy" their way out of strong retaliation allegations. For nuclear power stations which can generate more than \$1 million/day in electricity, the occasional cost of having to "buy-off" a whistleblower whom they retaliated against becomes just another cost of doing business. Since the utility can "buy" their way out of a damaging investigation with a \$500,000 settlement, there is not much financial risk in allowing retaliation to occur. The risk to the Safety Culture, however, is enormous. Once other employees see whistleblowers lose their jobs, they are unlikely to question management decisions.

The individual, who brought the October 21, 2003 incident to the attention of Callaway Plant management and, later, to the attention of the US NRC, claimed, in Allegation RIV-2007-A-0093, that he was retaliated against by the Operations Manager at Callaway Plant. This is a serious allegation. In lieu of investigating this well documented investigation, the US NRC instead conducted an investigation under RIV-2007-A-0130 whereby it interviewed employees of Callaway Plant concerning their willingness to document safety issues at the plant. The US NRC found no employees who suffered overt discrimination for addressing safety concerns. The US NRC failed to consider that just because plant management was savvy enough to not overtly pressure the plant population as a whole to not document safety concerns does not mean that plant management did not, on occasion, over look retaliation against the rare individuals willing to jeopardize their careers by aggressively pursuing resolutions to safety concerns. A well documented claim of retaliation is more enlightening than several dozen interviews of plant personnel – plant personnel who are aware that upper management knows they are being interviewed by the US NRC.

§4.5.3 Undermining Conservative Decision Making

NRC licensed Senior Reactor Operators, who would allow a shutdown reactor to remain subcritical, solely due to transient Xenon-135, for over an hour, while they perform surveillance tasks and minor off-normal tasks, severely undermine Conservative Decision Making. If it is alleged that the operators' actions (or, more accurately, inaction) were intentionally taken to cover up an inadvertent shutdown, then the US NRC has an obligation to aggressively investigate this allegation. **The standard of proof should be on the utility.** If the utility claims that the delay in inserting the control rods was caused by other activities which the Control Room operators needed to perform, then the utility should be able to show exactly what activities needed to be performed – down to the procedural steps being performed and the specific amount of manpower involved. If the utility cannot show that the delay was warranted by the workload, then it must be assumed the delay was **intentional**.

The Safety Culture is too important, and has evolved from too great an expense, to be allowed to be undermined by dishonest nuclear operators. The US NRC must be aggressive in ensuring the Safety Culture is maintained. Individuals, whose actions suggest they do not

respect the Safety Culture, cannot be allowed to work in the commercial nuclear industry. **When in doubt, the burden of proof should be on the individual – the individual should be required to show how his actions were in line with the Safety Culture.** By requiring the US NRC to disprove the claims made by the utilities, the Safety Culture is being eroded.

Utilities are comprised of individuals. These individuals must be accountable to the Safety Culture. They cannot be allowed to hide behind the culture of their utility. The culture of the utility is defined by the individual leaders (e.g. the Operations Manager, the Shift Managers, the Control Room Supervisors, etc.). **If the culture of the utility is flawed, the individuals who lead that culture must be held accountable.**

§5.0 Physical and Operational Concepts

§5.1 Fission Fundamentals

When Uranium-235 undergoes fission, its nucleus absorbs a neutron and splits into two highly radioactive daughter nuclei, releasing on average between 2 and 3 neutrons and a lot of kinetic energy. This kinetic energy is the source of the “fission heat” which is used to make steam and generate electricity.

The neutrons released during fission go on to cause subsequent fissions. When, on average, one neutron released from fission causes a subsequent fission, the reactor is said to be “critical” and reactor power is stable. When, on average, less than one subsequent fission is caused for each fission, the reactor is “sub critical” and reactor power is decreasing. When, on average, more than one subsequent fission is caused for each fission, the reactor is “super critical” and power is increasing.

§5.2 Fission Products and Decay Heat

The daughter nuclei produced in the fission reaction are referred to as Fission Products. For Uranium-235, there are around 600 different isotopes which are formed as Fission Products, representing 40 different elements. One of these isotopes is Xenon-135, which is an important “Fission Product Poison” (defined below).

The Fission Products give off “decay heat” long after the reactor is shutdown. “Decay heat” is the thermal energy generated by radioactive isotopes when they transition (decay) into other isotopes. The energy in the isotope’s nucleus decays (lowers) with each transition into a new element, until eventually a stable (non-radioactive) element is formed.

About 7% of an operating reactor’s power comes from “decay heat” and 92% comes from “fission heat”. About 1% comes from “pump heat”, which is the frictional heat generated by the reactor coolant pumps.

When the reactor shuts down, the “fission heat” goes away but the “decay heat” remains for some time. It was the failure to remove the “decay heat” which caused the meltdown at Three Mile Island’s Unit 2 reactor in 1979.

§5.3 The Point of Adding Heat (POAH)

The Point of Adding Heat is the point at which “fission heat” becomes a significant heat source.

There is typically very little “decay heat” present during a reactor startup since the more radioactive fission products decay off while the reactor is shutdown. So for a reactor startup, the Point of Adding Heat is mainly influenced by “pump heat” and occurs at around 1% rated reactor power.

For a reactor shutdown, "decay heat" is a significant contributor to the Point of Adding Heat. During a reactor shutdown, the POAH is typically at 2% rated reactor power, however, "decay heat" starts to have a masking affect on reactor power around 7% (note: during a shutdown the operators are taking the reactor from 100% power down to 0% power, so 7% power is reached before 2% power).

Because of the masking affect of "decay heat", during a reactor shutdown it can be difficult to tell if the reactor inadvertently goes subcritical. At low power levels, most of the indications used by the reactor operators will still read the same once the reactor goes subcritical. Unless the reactor operators are closely monitoring the Intermediate Range Nuclear Instruments, they will probably not notice the reactor going subcritical. Consider the following analogy:

You are sitting in an idling car at a rest stop looking at a road map. You are not monitoring the RPM meter on the dash board, but you know the car is idling because you can feel it vibrating slightly and you can hear the engine running.

Now suppose a tractor trailer pulls up next to you. The vibration and noise from the truck's diesel is loud enough that it drones out the noise and vibration of your own car engine. If you are not continuously monitoring the RPM indication, you will likely not notice if your car stalls.

Monitoring a reactor near the Point of Adding Heat is like monitoring an idling car near an idling truck – it can be successfully done, but close attention must be paid to certain indications (Intermediate Range Nuclear Instruments for the reactor and RPM indication for the car).

§5.4 Poisons

Isotopes which have a high affinity for absorbing neutrons are called "poisons" because they, in a sense, "poison" the fission reaction by absorbing neutrons which could otherwise be used to cause more fissions.

Some "poisons" are used to control the fission reaction. Boron-10 has more than 6 times the affinity for neutrons as Uranium-235. Adding small amounts of Boron to the reactor coolant is a way to lower reactor power and coolant temperature. Large amounts of Boron are added during a reactor accident to ensure the reactor shuts down. Boron is also used to keep the reactor subcritical during refueling operations.

Another "poison" used to control the fission reaction is Cadmium-113, which is contained in the control rods. Cadmium-113 has more than 35 times the affinity for neutrons as Uranium-235.

§5.5 Control Rods

The reactor core is made up of "fuel rods" and "control rods". The "fuel rods" contain Uranium-235 and are static – they do not move during reactor operation but they can be

removed and replaced when the reactor is shutdown for refueling. The "control rods" contain Cadmium-113 (some plants use Hafnium) and are moveable – they are inserted and withdrawn to control reactor power and reactor coolant temperature.

By inserting and withdrawing Cadmium control rods, the operators can raise or lower reactor power and reactor coolant temperature. During a reactor "trip", all the Cadmium control rods drop into the reactor core at once to shutdown the reactor. A reactor "trip" signal is generated by certain conditions (such as low coolant pressure, low coolant flow, high coolant temperature or high neutron flux) which could damage the fuel rods. During a reactor shutdown, the operators insert the control rods in the "control banks" to shutdown the reactor and to ensure it does not restart. The "control banks" are the group of control rods used to control reactor power and reactor coolant temperature.

§5.6 Fission Product Poisons

There are two major "Fission Product Poisons": Xenon-135 and Samarium-149. Unlike other poisons, these isotopes are not intentionally added to the reactor, but instead are generated during reactor operation. They are two of the approximately 600 isotopes which can be produced during fission and build up in the fuel rods.

Samarium-149 has an affinity for neutrons which is more than 68 times that of Uranium-235. Although this is significant, it is minor compared to Xenon-135. Xenon-135 has the highest neutron affinity of any isotope – more than 4000 times the neutron affinity of Uranium-235. If one Xenon-135 atom were present among 4000 Uranium-235 atoms and a neutron were to pass through the area, it is more likely that the neutron would be absorbed by the single Xenon-135 atom than by any of the 4000 Uranium-235 atoms.

§5.7 Xenon Transient

Xenon-135 builds up when reactor power is lowered. The explanation for why this occurs is fairly straight forward but involves differential calculus. It is a phenomenon with which all Reactor Operators are familiar.

As Xenon-135 builds up, it tends to shutdown the reactor. Because of Xenon-135, maintaining a reactor critical at low power, following a significant down power, is difficult. An example of a significant down power would be lowering reactor power from 100% power to 5% power over a 9 hour period, as occurred at the Callaway nuclear plant on October 21, 2003. The operators can compensate for changes in Xenon-135 by changing the Boron concentration in the reactor coolant or by moving the control rods.

If not properly controlled, Xenon-135 can cause a reactor to inadvertently shutdown. Although commercially undesirable (i.e. equates to a loss of money due to time lost to generate electricity), this is not, in itself, a safety concern.

Xenon-135 is radioactive. It has a half-life of 9.1 hours and decays to Cesium-135. Cesium-135 is not a reactor "poison". It has an affinity for neutrons that is less than 2% than that of Uranium-235 and nearly 1/300,000 as that of Xenon-135.

As Xenon-135 decays, the "poison", which is absorbing neutrons and keeping the reactor shutdown, is disappearing. When enough of it decays, the reactor will return to criticality. The nuclear accident at the Chernobyl #4 Reactor in 1986 occurred during a Xenon-135 transient. Hours prior to the accident, too many control rods were withdrawn to compensate for the buildup of Xenon-135. As the Xenon-135 decayed in the lower portion of the core, the control rods became ineffective for controlling reactor power. As a result of an ill-planned test procedure, a power excursion started in a portion of the core which could not be stopped by operation of the control rods. The reactor became "prompt critical", and reached more than one hundred times its design power level.

When a reactor, operating at low power, shuts down due to Xenon-135, it is a dangerous practice to leave the control banks withdrawn. **A large commercial reactor must be positively controlled.** If the intent is to shutdown the reactor, then, to ensure the reactor remains shutdown as the Xenon-135 decays, either the control banks must be inserted or Boron must be added to the reactor coolant. If Xenon-135 is to be credited to maintain the reactor shutdown, then a formal calculation must be done (such as a Shutdown Margin calculation) to ensure the operators know the amount and decay pattern of the Xenon-135 present in the core.

Consider the following analogy:

It is a winter day with the temperature in the upper 30's when a school bus, trying to stop on a hill, slides to a stop against a bank of plowed snow. The bus driver, who feels he is too busy to set the parking brake, instead relies on the bank of snow to keep the bus from rolling down the hill and opens the doors to let the children off. The parking brake is analogous to the reactor's control banks.

The snow bank keeping the bus from rolling is analogous to Xenon-135. Initially, the driver knows the snow bank is large enough to keep the bus from rolling because it was able to stop his bus. However, over time, the snow bank will melt (like Xenon-135 decays with time) and, as it loses mass, a point will be reached at which it can no longer hold back the school bus, and the school bus will start to roll down the hill.

If there was a vital need to operate a school bus in this manner, the process could be made safer by having an engineer evaluate the initial mass of the snow bank and the expected mass loss rate during the time the bus will be "parked" against it, to ensure there will always be enough mass in the snow bank to hold back the bus. Such a calculation would be analogous to a Shutdown Margin calculation.

Operating a school bus in the manner described above is unsafe. Although it is likely that a school bus occasionally operated in such a manner would not cause an accident, there is no

benefit to taking the risk and, if consistently operated in such a way, an accident will eventually occur.

Likewise, a large commercial reactor plant should not be allowed to remain subcritical, solely on an uncalculated Xenon-135 transient, while the operating crew performs routine tasks or minor "off-normal" tasks. Although it is likely that a commercial reactor plant occasionally operated in such a manner would not cause an accident, there is no benefit to taking the risk and, if consistently operated in such a way, an accident will eventually occur.

§5.8 Pressurizer Level and Let Down System

The Reactor Coolant System is the piping which contains the water that cools the reactor core.

Callaway Plant is a Pressurized Water Reactor, meaning the reactor coolant is not supposed to boil. While the plant is operating, the reactor coolant ranges in temperature from 557°F to 586°F at a pressure of 2235 psig. The 2235 psig overpressure, which keeps the reactor coolant from boiling, is maintained by the Pressurizer.

The Pressurizer is a tank attached to the Reactor Coolant loops by a surge line. The tank is about half full of water and half full of steam. The tank has heaters which heat the water in the tank to 652°F, causing the steam overpressure to be 2235 psig.

The water level in the Pressurizer is the highest point in the Reactor Coolant System. If a loss of reactor coolant accident were to occur (caused by a piping break), one of the indications of the accident would be a lowering water level in the Pressurizer.

The Let Down System is a system which continuously removes a small portion of the reactor coolant so that it can be purified and returned to the Reactor Coolant System – similar to the way the filtration system on a swimming pool keeps the pool water clean by continuously removing a small amount of water, filtering it, and returning it to the pool.

If water level in the Pressurizer falls to 17%, valves automatically isolate the Let Down System to limit the loss of reactor coolant from the Reactor Coolant System.

Although lowering water level in the Pressurizer is an indication of a reactor coolant leak, there are other things that can cause a lowering water level in the Pressurizer. When hot water cools down, it becomes more dense (i.e. it fits into a smaller amount of space). Because denser water takes up less space, if the reactor coolant temperature were to lower then the water level in the pressurizer would lower.

At the Callaway nuclear plant, the 10°F drop in reactor coolant temperature between 0945 and 1015 on October 21, 2003 caused the water level in the Pressurizer to lower below 17%. Once Pressurizer water level was less than 17%, the Let Down System automatically isolated. Although this may have been an embarrassing situation for the operating crew, it is not a situation that jeopardized reactor safety. However, any automatic system isolation is (and was) supposed to be documented in the Callaway Action Request System so that its cause can

be determined and, if warranted, Corrective Actions to Prevent Recurrence can be implemented.

§5.9 Tech Specs and Operating MODE

The Technical Specifications (abbreviated Tech Specs or T/S) are licensing documents which govern the operation of the plant. They contain Requirements, Applicability, Actions and Completion Times.

The Operating MODEs are defined in the plant Tech Specs:

- MODE 1: 5% reactor power to 100% power.
- MODE 2: Less than 1% Shutdown Margin and Less than 5% reactor power
- MODE 3: More than 1% Shutdown Margin and greater than 350°F
- MODE 4: Between 200°F and 350°F
- MODE 5: Less than 200°F and Reactor Vessel Head tensioned
- MODE 6: Reactor Vessel Head not fully tensioned

The Operating MODEs are used to define the Applicability of the Tech Specs. Certain Safety Related equipment needs to be operable for the various MODEs.

At the Callaway nuclear plant at 0721 on October 20, 2003, Inverter NN11 malfunctioned. Inverter NN11 is part of Tech Spec 3.8.7 which requires that both trains of inverters must be operable (i.e. able to perform its safety function) whenever the reactor is hotter than 200°F (MODE 1 through 4). If an inverter is unable to perform its safety function, then Condition A of T/S 3.8.7 gives the utility 24 hours to fix it. If the inverter is still not operable after 24 hours, then Condition B dictates the reactor must be shutdown (MODE 3) within 6 hours and the plant must be cooled down below 200°F (MODE 5) within 36 hours.

Since the electricians were unable to repair Inverter NN11 by 0721 on October 21, 2003, the plant entered Condition B of T/S 3.8.7. During the 6 hour time frame allotted to shutdown the reactor, the electricians were still working to repair Inverter NN11. Had Inverter NN11 been repaired before the reactor was shutdown, then the plant could exit T/S 3.8.7 and discontinue the plant shutdown.

When the reactor inadvertently shutdown at 1015 on October 21, 2003, upper management was expecting the operating crew to be maintaining the reactor critical while the electricians continued their repair efforts on Inverter NN11.

§5.10 Off-Normals, Surveillances and General Operating Procedures

An "Off-Normal" is a procedure used to respond to a plant transient which did not cause a reactor trip. An example of an "Off-Normal" is OTO-BG-00001, Loss of Letdown. Off-Normal procedures can have important steps which, if performed immediately, will prevent or minimize the plant transients. Off-Normal procedures also have recovery steps. These steps

provide the necessary guidance to track the return of plant systems back to their normal configuration.

During the inadvertent shutdown at 1014 on October 21, 2003, the operating crew at the Callaway nuclear plant was performing steps in OTO-BG-00001 due to the Letdown System isolation. At 1018 they reached the point where the Letdown System had been restored. The performance of OTO-BG-00001 should not have delayed the insertion of the Control Banks much more than five minutes beyond 1018.

During the 110 minutes which the reactor was shutdown with the control rods withdrawn, the Operating crew was also, technically, performing OTO-NN-00001, Loss of Safety Related Instrument Power. This procedure had been entered at 0821 due to problems with Inverter NN11. The important steps of this procedure were completed before the steam line transient started at 0945. While the rods remained withdrawn, no steps of OTO-NN-00001 were being performed. However, the crew was still "technically" performing the procedure because steps still remained unsigned while the crew was awaiting completion of work by Electrical Maintenance. The remaining steps of OTO-NN-00001 should not have delayed the insertion of the Control Banks.

A "Surveillance" is a procedure used to test safety-related equipment. Surveillance procedures are important procedures because they verify that the safety-related equipment will perform properly when needed. However, surveillances do not take precedence over operation of the reactor plant. There is no surveillance procedure which should delay the insertion of the control banks once the reactor has shutdown.

During the 110 minutes which the reactor was shutdown with the control rods withdrawn, the Operating crew authorized the performance of several surveillances. None of these surveillances were required to be performed prior to inserting the control rods.

The General Operating Procedures at Callaway Plant are the procedural guidance for major evolutions such as Plant Heat Up, Reactor Startup, Turbine Synchronization, Power Operations, Turbine and Reactor Shutdown, and Plant Cool Down. In 2003, the General Operating Procedures were not written as Continuous Use instructions so the steps in the procedures did not need to be performed in order.

Procedure OTG-ZZ-00005 is the General Operating Procedure used at Callaway Plant to take the turbine off-line and shutdown the reactor. In 2003, the procedure had steps in it which directed the operators to perform surveillances on the nuclear instruments. These steps came prior to the steps for inserting the control banks. However, these steps did not have to be performed in order and, in fact, the control banks were inserted during the performance of the third (of four) surveillance and prior to the performance of the fourth surveillance. Although the first and second nuclear instrument surveillances were performed during the 110 minutes which the reactor was shutdown with the control rods withdrawn, the performance of these surveillances was not a legitimate delay for inserting the control banks.

§5.11 Temperature Feedback to Reactivity

“Reactivity” is a measure of physical occurrences which affect the reactor’s margin to being critical. “Positive reactivity” is any change which causes a rise in fission rate and power level (e.g. withdrawing control rods, decay of Xenon-135, cool down of the reactor coolant).

“Negative reactivity” is any change which causes a decrease in fission rate and power level (e.g. inserting control rods, build up of Xenon-135, rise in reactor coolant temperature).

Callaway Plant is a “water moderated” reactor, meaning the water in the reactor coolant is used to moderate (slow down) the neutrons released in the fission reaction. If the water becomes less dense (i.e. less water molecules per given volume) then less neutrons are moderated and thus more neutrons leak from the core without causing subsequent fission reactions. More neutrons leaking from the core without causing subsequent fission reactions causes reactor power to lower.

Likewise, if the reactor coolant becomes denser, then less neutrons leak from the core so more fissions occur, causing reactor power to increase.

“Temperature feedback to reactivity” refers to the natural “feedback” that reactor coolant temperature has on reactivity in a water moderated reactor. When the control rods are withdrawn there is less Cadmium in the core to absorb neutrons so more neutrons cause fissions which thereby causes reactor power to increase. As long as reactor power is above the Point of Adding Heat, the increase in reactor power causes the temperature of the reactor coolant to increase. The hotter reactor coolant is now less dense so more neutrons leak from the core without causing fissions. This causes reactor power to lower. Thus after the control rod withdrawal, reactor power stabilizes at a higher reactor coolant temperature.

Another example of “feedback” occurs in response to Xenon-135 buildup. As Xenon-135 builds up, more neutrons are absorbed by Xenon-135 and thus less neutrons are available to cause fissions. Less fissions means reactor power is lower. If reactor power level lowers while steam demand (generator output) stays the same, then the temperature of the reactor coolant will lower. A lower reactor coolant temperature results in more dense water in the core which results in less neutrons leaking from the core and thus more neutrons available to cause fissions. More fissions cause reactor power to rise. Thus, as Xenon-135 builds up, reactor power stabilizes at a lower reactor coolant temperature. However, this natural feedback only occurs when the reactor is being operated well above the Point of Adding Heat. Near the Point of Adding Heat, this feedback is significantly diminished and below the Point of Adding Heat it does not exist at all. Since the operator cannot rely on this natural feedback and instead must actively move control rods to maintain power, operation of the reactor plant near the Point of Adding Heat is very challenging.

“Temperature feedback to reactivity” can cause a shutdown reactor to inadvertently return to criticality. Suppose a reactor is narrowly shutdown due to Xenon-135 (as was the case at Callaway Plant from 1015 to 1204 on October 21, 2003). In this state, more neutrons are either leaking from the core or being absorbed by Xenon-135 than are being produced in fission reactions. Now suppose a piece of equipment malfunctions which causes the reactor

coolant temperature to lower 10°F (as occurred at Callaway Plant on October 21, 2003 between 0938 and 1013). With more dense water in the core, less neutrons will leak from the core. **The decrease in neutron leakage will be enough to compensate for the neutrons lost to Xenon-135, causing the reactor to become supercritical.** A supercritical reactor will increase its power output unabated until it reaches the Point of Adding Heat. If enough supercritical margin (positive reactivity) is available, reactor power will rise beyond the Point of Adding Heat until a trip set point is reached. Significant damage to the fuel rods can occur if the rise in reactor power level is rapid enough.

§5.12 Fuel Damage from Reactivity Transients

The Uranium-235 fuel for a light water reactor is in the form of small pellets encased in thousands of long rods (about 12 feet long) each with a circumference about the size of a pinky finger. The rod is called the fuel "cladding". The cladding is the first "barrier" to the release of fission products. When Uranium-235 undergoes fission, it splits into two highly radioactive "fission products". The Fission Products are the radioactive "fall-out" of nuclear weapons, and they are what make spent nuclear fuel highly radioactive. However, as long as the fuel cladding is intact, these fission products are safely stored in the spent fuel. If the fuel rod's cladding were to become damaged, then fission products would be able to leak from the fuel rod into the reactor coolant.

There have been several cases in both military and commercial light water reactors of inadvertent, rapid power transients causing damage to the fuel cladding. The reactor itself does not need to be overpowered for cladding damage to occur. An uncontrolled, rapid, local rise in power has, in the past, caused enough stress on some fuel rods to cause cladding damage.

§5.13 Three Mile Island background

In the United States, reactor plants are designed to survive catastrophic acts of nature and unforeseen accidents. For many reactor plants, survivability of large earthquakes and accidental airplane crashes were part of the design bases to which the plants were licensed.

The accident at Three Mile Island was not caused by a "design basis" failure. No large pipes failed. No seismic event occurred. The accident at Three Mile Island was caused by minor failures which were expected to occasionally occur without any major impact to the plant.

Had no operators been at the plant during the accident, the reactor core would have never melted down. Safety systems which automatically started to cool the core were shutdown by the operators. The training and procedures provided to the operators were confusing. This confusion is what led to the human errors that caused the core melt down.

In the year prior to the core melt down, operators informed plant management of their concerns regarding certain alarm board designs and procedure layouts and instructions. Unfortunately, plant management took no action to address the concerns of the operators.

At Callaway Plant the inadvertent shutdown on October 21, 2003 was caused by a procedure problem (the procedural guidance for operation of the condenser steam dumps was flawed). Because the October 21, 2003 inadvertent shutdown was not documented in the Corrective Action Program as a Callaway Action Request (CAR), no analysis of the incident was ever conducted and the same procedural flaw caused a subsequent inadvertent shutdown of the reactor on June 17, 2005.

The Three Mile Island accident demonstrated, in the United States, that the greatest threats to nuclear safety were not the acts of nature which the plants were engineered to survive, but instead were **the minor problems which, when ignored by the utility's management and the government's regulators, eventually aligned to cause a core meltdown**: minor design deficiencies going unaddressed, accepting known procedural weaknesses, not addressing concerns raised by the plant operators, not following through with corrective actions from industry near misses, not repairing degraded equipment in a timely manner. **All of these problems were documented at Callaway Plant in various allegations to the United States Nuclear Regulatory Commission in 2007.**

§5.14 Chernobyl background

Like the Three Mile Island accident, the accident at the Chernobyl #4 reactor in 1986 was not the result of a design basis event (act of nature, freak accident like a plane crash, catastrophic equipment failure, etc.). The Chernobyl accident was caused by the plant operators improperly managing core reactivity during the conductance of an ill-planned test.

Like Three Mile Island, the accident at Chernobyl demonstrated that poor decision making is a much graver threat to nuclear safety than acts of nature or catastrophic equipment failure.

§5.15 Davis Besse background

In 2002 a boric acid leak at the Davis Besse nuclear plant ate a pineapple sized crater in the 6½ inch steel reactor vessel head. In the area of the crater, only the 3/8 inch thick stainless steel cladding remained in place. The 3/8 inch thick cladding was not designed to hold back the high pressure (2200 psig) reactor coolant, but somehow did not fail.

The Davis Besse incident is known as a "near miss". A major reactor accident could have resulted from the crater in the vessel head and was only prevented because a plant feature (the 3/8 inch thick stainless steel cladding of the reactor vessel head) performed beyond its design capability.

The cause of the Davis Besse incident was a failure of the plant's "Safety Culture". The plant's engineering staff should have discovered the damage to the reactor vessel head prior to the structural steel being completely wasted away. Plant upper management directed the engineers to delay the required inspections which would have uncovered the damage earlier.

Lynn Berger

From: William Jones
Sent: Monday, April 06, 2009 12:16 PM
To: Lisamarie Jarriel
Cc: R4ALLEGATION Resource
Subject: *****~~Sensitive Allegation Material~~ R4-2009-A-0037, buying off discrimination claim *****

Lisa,

The region IV staff reviewed Mr. C's February and March e-mails for additional concerns and initiated 2009-A-0036 and 37 based on these reviews. R4 is very close to issuing a final closure letter to 2007-A-0096. Response 8 speaks to the issue of SCWE including the detailed interviews that were conducted with the input from the CI. RIV-2009-A-0037 addresses the ECP aspects which also addresses the discrimination claims. Region 4 is continuing to develop the integrated response including the 2007-A-0096 closure language. R4 is considering that language along with the 56 questions and other inputs in developing an integrated response. This will also be arb'd to ensure appropriate oversight. Within the integrated response is the issue of "buying off discrimination concerns" as discussed in the March 1, 2009, E-mail.

William B. Jones
Chief, Allegation Coordination and Enforcement Branch
U.S. Nuclear Regulatory Commission
Region IV
(817) 860-8182
(b)(7)(C) (c)
willam.jones@nrc.gov

Lynn Berger

From: William Jones
Sent: Monday, April 06, 2009 4:41 PM
To: R4ALLEGATION Resource
Subject: *****~~Sensitive Allegation Material~~ R4-2007-0096, R4-2009-A-0036 and 37 Conversation record*****

On April 6, 2009, I called Mr. C with regard to his e-mails sent the week of April 1 inquiring about the status of his concerns. I informed him that the NRC staff had reviewed his Emails from February and March 2009 for issues relevant to Allegation R4-2007-A-0097 and that the NRC had opened two new allegations R4-2009-A-0036 and 0037 based on the information he had provided. I also informed him that the NRC was reviewing each of the e-mails he had submitted for any additional actions needed and that the NRC would be developing the follow up plan next week.

Mr. C also requested that he receive the responses by e-mail as he did not get home to his permanent mailing address very often.

William B. Jones
Chief, Allegation Coordination and Enforcement Branch
U.S. Nuclear Regulatory Commission
Region IV
(817) 860-8182
(b)(7)(C) (c)
wiliam.jones@nrc.gov

R4ALLEGATION Resource

From: Greg Werner
Sent: Thursday, March 05, 2009 2:06 PM
To: R4ALLEGATION Resource
Cc: Eric Ruesch; Harry Freeman; James Drake
Subject: Allegation 2009-0037
Attachments: 09037 RFI.doc; 09037 BEPR.doc

I thought I had already sent this to you, but couldn't find an e-mail. So here is the BEPR and RFI for Allegation 2009-0037.

Greg Werner

Branch Evaluation, Plan & Recommendation

Allegation Number: RIV-2009-A-0037

Facility Name: Callaway Plant

Docket/License No: 05000483

Responsible Div: DRS

ARB Date: 2/10/2009

Overall Responsible Branch: PSB2

(As assigned by the ARB)

Received Date

2/24/2009

30 Days

3/26/2009

70 Days

5/5/2009

90 Days

5/25/2009

120 Days

6/24/2009

Purpose of this ARB: Initial ARB

Basis for a Subsequent ARB:

Does the Allegor **OBJECT** to the NRC requesting that the licensee formally assess/evaluate the concern(s)?

Yes

X

No

N/A

If any of the following factors apply, this allegation shall not be submitted to the licensee for investigation or review.

☐ Information cannot be released in sufficient detail to the licensee without compromising the identity of the allegor or confidential source.

☐ The licensee could compromise an investigation or inspection because of knowledge gained from the discussions.

☐ The allegation is made against the licensee's management or those parties who would normally receive and address the allegation.

☐ The basis of the allegation is information received from a Federal or State agency that does not approve of the information being released.

ARB PARTICIPANTS

Chairman:

Chairman Approval:

Date:

Overall Allegation Summary or if more than 3 Concerns, keywords, topics, subject, etc.: Provide a summary or selected keywords/topics/subject for the whole allegation's contents below. The AMS field is only 250 characters. ***See the BEPR Desktop Guide for assistance.

CI states that the ECP does not adequately address concerns and only functions to protect the company. The CI provided 4 examples of issues that were already known by the NRC (provided under other allegation files).

Branch Evaluation, Plan & Recommendation

Allegation Number: RIV-2009-A-0037

Concern: 1.

***RX Code/Functional Area:** No Dept. Specified

Responsible Branch: PSB2

***Discipline:** Employee Concerns Pgm

***OI Investigation Priority:**

OI Case Number: 4-20XX-0XX

***OI Priority Basis:**

Concern: (A concern is one or two sentences.)

The Employee Concerns Program at the Callaway nuclear plant does not adequately address the concerns brought to it by plant employees. The ECP at Callaway Plant functions to "protect" the company from allegation[s] by serving merely as a vehicle to gather information to dispute the alleged's claims. Evidence contrary to the company's position is either not pursued or, if incidentally obtained, is ignored.

Concern Background, Supporting Information, & Comments:

The four examples provided by the CI were issues already known to the NRC. Examples 1 and 2 involved an alleged inattentive (b)(7)(C) which has been extensively investigated by OI and determined to be unsubstantiated. Previously, the former ECP manager had advised the former Senior Allegation Coordinator of this issue and advised that he had essentially substantiated the issue based upon interviews; however, when OI interviewed those same individuals under oath while they were accompanied by the company attorney, they would not substantiate that they had actually seen the (b)(7)(C) sleeping or being inattentive.

Examples 3 & 4 involved the CI's claims of alleged retaliation for having raised safety concerns. These issues were addressed under Allegation RIV-2007-A-0093 and were settled (outside of ADR). The NRC accepted the settlement agreement in lieu of conducting an OI investigation. While the CI stated that he was never provided the results of the investigation, this may have been appropriate since the licensee was in negotiations with the CI and his attorney. Note: The agreement signed by the CI stipulates that the CI agrees to drop any further pursuit of his discrimination complaints.

The most recent PI&R Inspection, completed in March 2008, found that the licensee had established a safety-conscious work-environment. Most (but not all) individuals indicated that they would use the ECP if they did not get satisfaction using the CAP but two individuals indicated that they did not trust the ECP. The next PI&R is scheduled for October 2010.

Regulatory Requirement:
None.

*Safety Significance:		HIGH	X	Normal		N/A	
------------------------------	--	------	---	--------	--	-----	--

Basis: Describe the concern's safety significance below (current, on going issue; level of individual(s) involved; etc.)

Check each question as applicable to this concern.

X	Is it a declaration, statement, or assertion of impropriety or inadequacy? Is there a potential deficiency?
---	---

	Is the impropriety or inadequacy associated with NRC regulated activities? Is it a potential NRC violation(s)?
--	--

X	Is the validity of the issue unknown?
---	---------------------------------------

If all of the above statements are checked, the issue is an allegation.

Technical Staff Recommendation(s)

Date	*Recommended Action	Assigned Branch	Planned Date
3/2/09	Refer to licensee for review and PSB2 to review licensee's response.	PSB2	

Branch Evaluation, Plan & Recommendation

Allegation Number: RIV-2009-A-0037

Concern: 1.

NOTE: Attach Draft NOV, RFI questions/requests, and/or an inspection plan as a separate document.

ARB Date	ARB Decision(s)	Assigned to	Accepted Planned Date

Concern

The Employee Concerns Program at the Callaway nuclear plant does not adequately address the concerns brought to it by plant employees. The ECP at Callaway Plant functions to "protect" the company from allegation[s] by serving merely as a vehicle to gather information to dispute the individual's claims. Evidence contrary to the company's position is either not pursued or, if incidentally obtained, is ignored.

Request for Information

Specifically, the NRC requests that an individual trained in investigations/auditing techniques, who is independent of the Employee Concerns Program and of the original investigations, review the following four issues to determine whether they were adequately investigated:

1. A 2005 investigation of an issue that (b)(7)(C) was "inattentive" while standing watch in the reactor plant Control Room.
2. An early 2006 investigation regarding a concern that the Operations Department did not adequately address the concerns of the inattentive (b)(7)(C) described in issue 1.
3. An August 2006 investigation into a concern that an individual's Senior Reactor Operator license had been removed in retaliation for addressing nuclear safety and commercial concerns in the Corrective Action Program.
4. May 2007 investigation(s) initiated in response to issues raised by a former Senior Reactor Operator to his 2006 Performance Appraisal comments.

The reviewer should determine whether the investigations were thorough in their review, that all credible leads were followed in determination of the validity of the concerns, that all appropriate individuals were interviewed, and that the individual(s) who raised these concern received appropriate feedback.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
612 EAST LAMAR BLVD, SUITE 400
ARLINGTON, TEXAS 76011-4125

February 27, 2009

MEMORANDUM TO: Gregory E. Werner, Chief, Plant Support Branch 2
FROM: Judith Walker, Allegation Coordinator *JW*
SUBJECT: NEW ALLEGATION RECIEPT
REFERENCE: ALLEGATION RIV-2009-A-0037

ACES has received the attached material related to Callaway Plant. **Please review the material by March 9, 2009, for the following:**

- Review each of the individual's concerns within the receipt form and determine whether they are captured accurately and whether they are NRC regulated activities or not. Provide a brief summary for the overall allegation and a brief statement of each concern for the ARB. It is not necessary to include all of the background information.
- List each concern separately on a copy of the "Branch Evaluation, Plan & Recommendation (BEPR)" file located at (b)(7)(F) Please use the most current form listed in the R:\ drive.
- List possible regulatory requirements (i.e., 10 CFR 26, etc.) that may apply to each concern, if known. If none, state "none."
- Under safety significance, provide a follow-up priority (i.e., high: immediate action required, or normal: routine follow-up).
- Provide a recommendation for disposition (i.e., Of investigation, inspection, request for information, or none). List this under the Technical Staff Recommendation's "Recommended Action" section.
- List the branch you believe that should be responsible for the action.
- Provide a planned completion date. Coordinate with the other applicable branches for documenting their planned completion date(s).
- Review the BEPR desktop guide at (b)(7)(F) for additional guidance in completing the BEPR.

An electronic copy of the BEPR should be sent to R4ALLEGATION_RESOURCE with the allegation number in the SUBJECT line. **This form must be received by 1:00 p.m. on Wednesday for inclusion in the following Monday's ARB.** Should you have any questions, please call me.

Please document your time as follows:

Docket Related Allegations - BJ2 and appropriate report number.

If no number is available, charge hours toward the current resident inspector report.

Non Docket - A10304 Support for Allegations (Reactors) or A10191 Support for Allegations (Materials)

Attachments: As Stated

cc w/attachment: Allegation File

R4ALLEGATION Resource

From: Judith Walker
Sent: Friday, February 27, 2009 4:20 PM
To: R4ALLEGATION Resource
Cc: William Jones
Subject: 09036 and 09037 Phone call with allegor 02/27/09

I phoned the allegor to discuss his new concerns with Callaway. RIV-2009-A-0036 and RIV-2009-A-0037. I explained the Request For Information Process and the allegor had no objection with NRC requesting information from the licensee for both cases. Additionally, the allegor requested that we send all correspondence via Regular Mail instead of Certified Receipt.

Judith Walker
Allegation Coordinator
U.S. NRC Region IV
817-860-8145

Judith Walker

From: HOO Hoc
Sent: Tuesday, February 24, 2009 10:39 AM
To: Bernadette Baca; Judith Walker; William Jones
Subject: FW: Allegation concerning Callaway Plant's Employee Concerns Program investigations - CONCERNED INDIVIDUAL INFORMATION

FYI

Headquarters Operations Officer
U.S. Nuclear Regulatory Commission
Phone: 301-816-5100
Fax: 301-816-5151
E-mail: hoo.hoc@nrc.gov
Secure E-mail: hoo1@nrc.sgov.gov

From: Lawrence Criscione [<mailto:lcriscione@hotmail.com>]
Sent: Tuesday, February 24, 2009 11:32 AM
To: HOO Hoc
Subject: Allegation concerning Callaway Plant's Employee Concerns Program investigations

I believe the Employee Concerns Program at the Callaway nuclear plant does not adequately address the concerns brought to it by plant employees. The ECP at Callaway Plant functions to "protect" the company from allegation by serving merely as a vehicle to gather information to dispute the allegor's claims. Evidence contrary to the company's position is either not pursued or, if incidentally obtained, is ignored.

The specific investigations I believe were inadequately addressed by the Employee Concerns program pertain to the following incidents:

1. In 2005 a reactor operator at Callaway Plant informed the ECP that he and other reactor operators were concerned that a (b)(7)(C) was "inattentive" while standing watch in the reactor plant Control Room.
2. In early 2006 a (b)(7)(C) at Callaway Plant (b)(7)(C) informed the ECP that the Operations Department did not adequately address the concerns of the reactor operators concerning (b)(7)(C).
3. In August 2006, I informed the ECP that I believed the Operations Department at Callaway Plant removed my Senior Reactor Operators in an act of retaliation for addressing nuclear safety and commercial concerns in the Corrective Action Program. I was told in 2007 that the ECP investigated this concern but was never provided any documentation as to what their results were.
4. In May 2007, the ECP at Callaway Plant supposedly investigated several concerns I raised in my response to my 2006 Performance Appraisal comments. I was informed over the summer (of 2007) that issued raised in my performance appraisal response were not substantiated. The ECP coordinator refused to provide me any documentation regarding his investigation and I do not believe an adequate investigation was conducted. Specifically, I believe the ECP coordinator only spoke with individuals whom he believed would support the company's position and ignored other individuals mentioned in the response.

I respectfully request that the US NRC review the four Callaway Plant Employee Concerns Program investigations detailed above to determine if there is a pattern of skewing internal investigations in favor of the company's position instead of attempting to neutrally investigate concerns internally.

V/r,

ALLEGATION RECEIPT FORM

Allegation Number: RIV-2009-A-0037

Facility/Outside Org Name: Callaway Plant

Receipt Date: February 24, 2009

Received By: Headquarters Operations Officer (email account)

CONCERN 1**Concern: (A concern is one or two sentences.)**

The Employee Concerns Program at the Callaway nuclear plant does not adequately address the concerns brought to it by plant employees. The ECP at Callaway Plant functions to "protect" the company from allegation by serving merely as a vehicle to gather information to dispute the allegor's claims. Evidence contrary to the company's position is either not pursued or, if incidentally obtained, is ignored.

Concern Details and Comments: Background material, supporting information, etc. Narrative concern description. What occurred? When did it occur? Where did it occur (location)? How/why did it occur?

Specific investigations the allegor believes were inadequately addressed by the Employee Concerns program pertain to the following incidents:

1. In 2005 a reactor operator at Callaway Plant informed the ECP that he and other reactor operators were concerned that a (b)(7)(C) was "inattentive" while standing watch in the reactor plant Control Room.
2. In early 2006 a (b)(7)(C) at Callaway Plant (b)(7)(C) informed the ECP that the Operations Department did not adequately address the concerns of the reactor operators concerning (b)(7)(C).
3. In August 2006, the allegor informed the ECP that (s)he believed the Operations Department at Callaway Plant removed the allegor's Senior Reactor Operators in an act of retaliation for addressing nuclear safety and commercial concerns in the Corrective Action Program. The allegor was told in 2007 that the ECP investigated this concern but was never provided any documentation as to what their results were.
4. In May 2007, the ECP at Callaway Plant supposedly investigated several concerns the allegor raised in his/her response to his/her 2006 Performance Appraisal comments. The allegor was informed over the summer (of 2007) that issue raised in his/her performance appraisal response was not substantiated. The ECP coordinator refused to provide the allegor any documentation regarding his/her investigation and the allegor does not believe an adequate investigation was conducted. Specifically, the allegor believes the ECP coordinator only spoke with individuals whom the allegor believed would support the company's position and ignored other individuals mentioned in the response.

What other individuals (witnesses or other sources) could the NRC contact for information?

What records, documents, or other evidence should the NRC review?

What is the potential safety impact? Is this an ongoing concern? Is it an immediate safety or security concern? If the concern is an immediate and/or ongoing concern, the issue must be called in promptly to your Branch Chief.

Was the concern brought to management's attention? What it entered into the Corrective Actions Program (CAP#)? What actions have been taken? If not, why not?

What requirement/regulation governs this concern?

Regulations prohibit NRC licensees (including contractors & subcontractors) from discriminating against individuals who engage in protected activities (alleging violations of regulatory requirements, refusing to engage in practices made unlawful by statutes, etc.).

☐ YES ☒ No Does the concern involve discrimination? If "No," proceed to next section.

☐ YES ☒ No Was the individual advised of the DOL process?

What was the protected activity? When did it occur?

Who in management/supervision was aware of the protected activity? When did they become aware?

How were they made aware?

ALLEGATION RECEIPT FORM

Allegation Number: RIV-2009-A-0037

Facility/Outside Org Name: Callaway Plant Receipt Date: February 24, 2009Received By: Headquarters Operations Officer (email account)**CONCERN** 1

What adverse actions have been taken (termination, demotion, not being selected for position)? When did it occur?

What was management's reason for the adverse action?

Why does the individual believe the actions were taken as a result of engaging in a protected activity?

***Copy this page for additional concerns. Use additional sheets as necessary to capture the concerns in as much detail as possible.

ALLEGATION RECEIPT FORM

Allegation Number: RIV-2009-A-0037

ALLEGER INFORMATION

Full Name: Lawrence S. Criscione *NRC or Licensee Identified*

Telephone Office: _____ * If marked, no need to fill out rest of Allegor Information

Home: _____ Email Address: _____

Mobile: (573) 230-3959

Mailing Address: 1412 Dial Court, Springfield, IL 62704

Employer: _____ Occupation: _____

Relationship to Facility: Former Employee

For "Relationship", select: Licensee Employee; Former Licensee Employee; Contractor Employee; Former Contractor Employee; Private Citizen; News Media; Special Interest Group; Other Federal Agency; State Agency; Municipal Government; Fed/State/Local Govt Employee; OI Confidential Source; IG Confidential Source; Other (describe)

ALLEGER CONTACT METHOD AND TIME

TIME : _____ < AM or PM Telephone _____ Email _____ Postal Service _____

Other/Specific Requests/Comments: : Contact by mobile number anytime

(Send NRC correspondence via Regular Mail)

LICENSEE INFORMATION REQUEST & INDIVIDUAL IDENTITY PROTECTION

Explain that if the concerns are discussed with or information is requested from the licensee, that allegor's identity will not be revealed. This contact is necessary for the NRC to conduct our independent evaluation for the concerns. If the concerns are an agreement state issue or the jurisdiction of another agency, explain that we will transfer the concern to the appropriate agency, and if the allegor agrees, we will provide the allegor's identity for follow-up.

____ YES ☒ No Does the Allegor **OBJECT** to the NRC requesting that the licensee formally assess/evaluate the concern(s)?

____ YES ☒ No Does the individual **OBJECT** to the release of their identity? Explain that in certain situations (such as discrimination cases), their identity will need to be released in order for the NRC to obtain specific and related information from the licensee.

ALLEGATION SUMMARY

Provide a short summary or keywords/topics/subject (for large number of concerns) for the allegation's contents below. This summary is to provide an overview or quick reference in allegation tracking reports:

RECEIPT METHODTelephone/Voice Mail _____ Inspection _____ In-Person _____ Letter _____ Email ☒ Fax _____

Licensee _____ Other Method/Comments: _____

FACILITY

Facility Name: Callaway Plant Location/Address: _____

Docket(s)/License #: Docket: 50-483

License: NPF-30

Additional Contact Information:OSHA: 1-800-321-OSHA Regional Offices: <http://www.osha.gov/html/RAmap.html>DOL Main Call Center Number: 1-866-4-USA-DOL Monday – Friday 8 am to 5 pm (<http://www.dol.gov>)

Discrimination/Wage – Back Pay Issues: 1-866-487-9243

TTY number for all Department of Labor Questions: 1-877-889-5627

HOO (Immediate safety Concerns): 1-301-816-5100

RIV Allegation FAX: 1-817-276-6525

*Non-emergency Toll Free Hot Line: 1-800-695-7403

R4Allegation@nrc.gov

*Note: The Hot Line is not recorded during business hours (7 am – 5 pm Eastern). However, during non-business hours the HOO will answer and will be on a recorded line.