

NOV 23 1999

RI-99-A-0019

Mr. John H. Mueller
Chief Nuclear Officer
Niagara Mohawk Power Corporation
Nine Mile Point Nuclear Station
Operations Building, 2nd Floor
P.O. Box 63
Lycoming, NY 13093

Dear Mr. Mueller:

On February 23, 1999, the NRC Office of Investigations (OI) initiated an investigation to determine whether a Chief Shift Operator had been discriminated against by Niagara Mohawk in, or after October 1998 for having raised concerns about the Nine Mile Point Unit 1 reactor overfill event in November 1996. Based upon the evidence developed during the investigation, OI could not substantiate that the Chief Shift Operator was discriminated against in, or after, October 1998, as a result of having engaged in protected activities. A copy of the synopsis of OI Report 1-1999-006 is enclosed.

Please note that final NRC documents, including the final OI report, may be made available to the public under the Freedom of Information Act (FOIA) subject to redaction of information provided under FOIA. Requests under the FOIA should be made in accordance with 10 CFR 9.23, Requests for Records, a copy of which is enclosed for your information. Should you have any questions regarding this letter, please feel free to contact Ms. Michele Evans, of my staff, at (610) 337-5224.

Sincerely,
Original Signed By: <

R. V. Blough for
A. Randolph Blough, Director
Division of Reactor Projects

Enclosures:
Synopsis of OI Report No. 1-1999-006
10 CFR 9.23, Requests for Records

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SYNOPSIS

This investigation was initiated on February 23, 1999, by the U.S. Nuclear Regulatory Commission, Office of Investigations (OI), Region I, to determine whether a Chief Shift Operator (CSO) at the Nine Mile Point Nuclear Station (NMPNS), Unit 1, had been discriminated against (demoted) in, or after, October 1998, for having engaged in protected activities. The CSO claims that she was forced to accept the demotion because she had raised safety concerns in November 1996 and filed a complaint with the Department of Labor in October 1997.

Based upon the evidence developed during this investigation, OI could not substantiate that the CSO was discriminated against in, or after, October 1998, as a result of having engaged in protected activities.

§ 9.23 Requests for records.

(a)(1) A person may request access to records routinely made available by the NRC under § 9.21 in person or in writing at the NRC Public Document Room, 2120 L Street, NW., Washington, DC 20555.

(1) Each record requested must be described in sufficient detail to enable the Public Document Room to locate the record. If the description of the record is not sufficient to allow the Public Document Room staff to identify the record, the Public Document Room shall advise the requester to select the record from the indexes published under § 9.21(c)(6).

(ii) In order to obtain copies of records expeditiously, a person may open an account at the Public Document Room with the private contracting firm that is responsible for duplicating NRC records.

(2) A person may also order records routinely made available by the NRC under § 9.21 from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia, 22161.

(b) A person may request agency records by submitting a request authorized by 5 U.S.C. 552(a)(3) to the Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. The request must be in writing and clearly state on the envelope and in the letter that it is a "Freedom of Information Act request." The NRC does not consider a request as received until it has been received and logged in by the Director, Division of Freedom of Information and Publications Services, Office of Administration.

(1) A Freedom of Information request covers only agency records that are in existence on the date the Director, Division of Freedom of Information and Publications Services, receives the request. A request does not cover agency

records destroyed or discarded before receipt of a request or which are created after the date of the request.

(2) All Freedom of Information Act requests for copies of agency records must reasonably describe the agency records sought in sufficient detail to permit the NRC to identify the requested agency records. Where possible, the requester should provide specific information regarding dates, titles, docket numbers, file designations, and other information which may help identify the agency records. If a requested agency record is not described in sufficient detail to permit its identification, the Director, Division of Freedom of Information and Publications Services, shall inform the requester of the deficiency within 10 working days after receipt of the request and ask the requester to submit additional information regarding the request or meet with appropriate NRC personnel in order to clarify the request.

(3) Upon receipt of a request made under paragraph (b) of this section, the NRC shall provide written notification to the requester that indicates the request has been received, the name of the individual and telephone number to contact to find out the status of the request, and other pertinent matters regarding the processing of the request.

(4) (i) The NRC shall advise a requester that fees will be assessed if—

(A) A request involves anticipated costs in excess of the minimum specified in § 9.39; and

(B) Search and duplication is not provided without charge under § 9.39; or

(C) The requester does not specifically state that the cost involved is acceptable or acceptable up to a specified limit.

(ii) The NRC has discretion to discontinue processing for records responsive to a request made under this paragraph (b) until—

(A) A required advance payment has been received;

(B) The requester has agreed to bear the estimated costs;

(C) A determination has been made on a request for waiver or reduction of fees; or

(D) The requester meets the requirements of § 9.39.

(c) If a requested agency record that has been reasonably described is located at a place other than the NRC Public Document Room or NRC headquarters, the NRC may, at its discretion, make the record available for inspection and copying at the other location.

(d) Except as provided in § 9.39—

(1) If the record requested under paragraph (b) of this section is a record available through the National Technical Information Service, the NRC shall refer the requester to the National Technical Information Service; and

(2) If the requested record has been placed in the NRC Public Document Room under § 9.21, the NRC may inform the requester that the record is in the PDR, and that the record may be obtained in accordance with the procedures set forth in paragraph (a) of this section.

(e) The Director, Division of Freedom of Information and Publications Services, shall promptly forward a Freedom of Information Act request made under § 9.23(b) for an agency record which is not publicly available in the NRC Public Document Room under § 9.21 to the head of the office primarily concerned with the records requested and to the General Counsel, as appropriate. The responsible office will conduct a search for the agency records responsive to the request and compile those agency records to be reviewed for initial disclosure determination under §§ 9.25 and 9.27.

[52 FR 49356, Dec. 31, 1987, as amended at 53 FR 43420, Oct. 27, 1988; 53 FR 52993, Dec. 30, 1988; 54 FR 53316, Dec. 28, 1989]

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Region I Docket Room (w/concurrences)

Nuclear Safety Information Center (NSIC)

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