

1-96-045

CASE No.



**United States
Nuclear Regulatory Commission**

Report of Investigation

HADDAM NECK PLANT:

**Discrimination Against a Burns Security Guard for Raising a
Safety Concern to Management About the Testing of an
Intrusion Alarm System**

Office of Investigations

Reported by OI: **RI**

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FOIA 98-268

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Title: HADDAM NECK PLANT:

DISCRIMINATION AGAINST A BURNS SECURITY GUARD FOR RAISING A SAFETY
CONCERN TO MANAGEMENT ABOUT THE TESTING OF AN INTRUSION ALARM
SYSTEM

Licensee:

Connecticut Yankee Atomic Power Company
P.O. Box 270
Hartford, Connecticut 06141-0270

Docket No.: 50-213

Case No.: 1-96-045

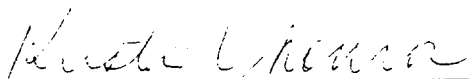
Report Date: April 10, 1997

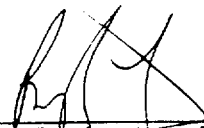
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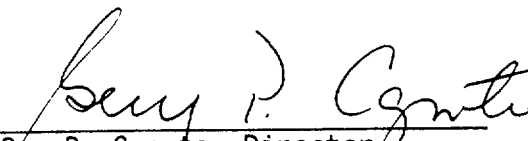
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TABLE OF CONTENTS

	<u>Page</u>
LIST OF INTERVIEWEES	3
DETAILS OF INVESTIGATION	5
Applicable Regulations	5
Purpose of Investigation	5
Background	5
Interview of Allegor	6
Allegation No. 1 (CHAMBERLAND was Terminated by BISS, on July 17, 1996, for Raising a Safety Concern)	7
Review of Documentation	7
Summary	7
Evidence	8
Allegation No. 2 (CHAMBERLAND was Being "Blackballed" by BISS for Raising a Safety Concern)	8
Review of Documentation	8
Summary	9
Evidence	9
LIST OF EXHIBITS	11

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LIST OF INTERVIEWEES

Exhibit(s)

BELLAMY, Joan C. (Chris), Chief of Security - Connecticut Yankee, Burns International Security Services (BISS)	16
BUNKER, Tammy L., Lieutenant, BISS	17
CHAMBERLAND, Gerald, former Sergeant, BISS	14 & 15
COPPERTHITE, Brian K., Sr, Sergeant, BISS	21
DALE, Julie, Lieutenant, Colt Firearms	32
DALLING, Wanda, Personnel Specialist, BISS	20
DEVOID, Lee, Sergeant, BISS	22
DOIRON, Andre M., Sergeant, BISS	23
EAGER, William J., Security Officer, BISS	24
FLETCHER, Melody A., Sergeant, BISS	25
GAROFALO, Joseph, Sergeant, BISS	26
LABBE, Al, Sergeant, Colt Firearms	31
PALMIERI, James J., Regional Manager, Utility Business Unit, Northeast Nuclear District, BISS	19
PEKAROVIC, Rosemary, Sergeant, BISS	27
RIVAL, Charles, F., Training Supervisor, BISS	28
SOKOLOWSKI, Francis, J., Lieutenant, BISS	29
THOMA, Walter R., District Manager, Utility Business Unit, Northeast Nuclear District, BISS	18
VEZINA, George, Director of Security, Colt Firearms	30

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DETAILS OF INVESTIGATION

Applicable Regulations

10 CFR 50.5: Deliberate misconduct

10 CFR 50.7: Employee protection

Purpose of Investigation

This investigation was initiated by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region I, on December 3, 1996, to determine whether Gerald CHAMBERLAND, former security sergeant, Burns International Security Services (BISS), located at Haddam Neck Plant (also known as Connecticut Yankee (CY)), East Haddam, Connecticut, was terminated on July 17, 1996, because he raised a safety concern. During the course of the investigation, an additional allegation was raised that CHAMBERLAND was being "blackballed" by BISS (Exhibits 1-3).

Background

Exhibit 4 is a copy of a letter to the U.S. Department of Labor (DOL), from CHAMBERLAND, dated November 8, 1996. CHAMBERLAND alleged that he was unjustly terminated by BISS, for reasons that did not concern job performance, on July 12, 1996.

Exhibit 5 is a copy of a letter to CHAMBERLAND, from Kenneth W. JACKSON, Assistant District Director, DOL, dated January 7, 1997. The letter discloses that it was DOL's position that a prima facie showing had not been made in that CHAMBERLAND did not demonstrate that he suffered an unfavorable personnel action as a result of engaging in a protected activity.

AGENT'S NOTE: CHAMBERLAND did not appeal DOL's position.

Exhibit 6 is a copy of a memorandum to THOMA, from BELLAMY, dated July 16, 1996, Subject: "Gerry Chamberland." The memorandum documents the July 12, 1996, meeting between BELLAMY and CHAMBERLAND, where CHAMBERLAND became "quite belligerent" in his tone, and used "very strong profanity" while "venting." BELLAMY advised CHAMBERLAND that complaints about his behavior from his peers and plant personnel were being received, and that BELLAMY was not going to allow that to continue. The memorandum further disclosed that based upon BELLAMY's personal experiences with CHAMBERLAND, she could only conclude that he could not be rehabilitated back into the supervisory or security officer ranks. She continued stating that CHAMBERLAND continually blamed others for his unacceptable behavior and took no responsibility.

Exhibit 7 is a copy of a memorandum from THOMA, dated July 17, 1996, Subject: "Gerry Chamberland, 1530-1600 - Termination Meeting." The memorandum disclosed that CHAMBERLAND was notified that BISS could not continue with his aggressive behavior and outbursts on security officers. CHAMBERLAND was

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advised by THOMA that during site interviews with several security officers, they indicated to THOMA that they were fearful of something happening due to CHAMBERLAND's explosive outbursts on personnel. CHAMBERLAND was given the opportunity to resign, but declined, and said that he was going to fight the termination.

Exhibit 8 is a copy of "Borg-Warner Protective Services, Notice of Termination of Employment," for CHAMBERLAND, dated September 3, 1996. The reason for discharge was "Poor Performance - No Misconduct."

Exhibit 9 is a copy of "Borg-Warner Protective Services, Notice of Termination of Employment," for CHAMBERLAND, undated. The reason for discharge was "Poor Performance - No Misconduct." The remarks section disclosed that CHAMBERLAND was discharged for conduct unbecoming a supervisor, abusive behavior/performance to subordinates, peers, and superiors. The document further discloses that there were at least seven write ups/counseling during a nine month time span. The poor performance/conduct was escalating in the last several weeks, and site and offsite management were fearful of a situation occurring.

Interview of Allegor (Exhibits 14 and 15)

CHAMBERLAND was interviewed by OI on January 7 and 8, 1997, and stated substantially as follows:

CHAMBERLAND was employed by BISS, at the Haddam Neck Plant, from 1989 until July 17, 1996, when he was terminated. CHAMBERLAND was promoted to sergeant, a supervisory position, in May 1995.

CHAMBERLAND advised that he had "mentioned" to a couple of people, GAROFALO and DEVOID, that he was going to the NRC about "certain things that he thought were wrong. CHAMBERLAND thought he told GAROFALO and DEVOID in the May/June 1996 time frame. GAROFALO and DEVOID were peers of CHAMBERLAND's. CHAMBERLAND "had a feeling" that DEVOID told Lieutenant NAGY or BELLAMY that he was going to the NRC. CHAMBERLAND could not substantiate that feeling. CHAMBERLAND never told a supervisor that he was going to the NRC. When asked if there was a reason why he had not gone to the NRC, CHAMBERLAND responded, "No" (Exhibit 14, pp. 15-20; and Exhibit 15, p. 136).

CHAMBERLAND was concerned about "some of the things" that the security shift supervisors (SSS), who were not BISS employees, were doing. CHAMBERLAND said that SSSs thought that they could do anything that they wanted to. CHAMBERLAND was also concerned about the way that new security officers were being trained (Exhibit 14, pp. 15 and 16; and Exhibit 15, pp. 86-92).

Regarding his allegation that he wrote up [REDACTED], who CHAMBERLAND believed had not properly tested a microwave E-field after repairs had been made, CHAMBERLAND advised that he did not report or write up [REDACTED]. CHAMBERLAND thought he was supposed to report it, but he was not sure. In response to a question if he did not report [REDACTED] because he was afraid that he would be fired, CHAMBERLAND said that was one of the reasons that he "kept

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his mouth shut." He was afraid, if he reported it, it would make things worse. CHAMBERLAND then said, "I think if I would have had to, I would have [reported it] (Exhibit 14, p. 20; and Exhibit 15, pp. 136-141).

CHAMBERLAND also alleged that he had applied for a position as a security guard with Colt Firearms (CF), on December 30, 1996. CHAMBERLAND said that he had an interview with CF the week of January 20, 1997. CHAMBERLAND returned for a second interview on January 28, 1997, and was told by Sergeant Al LABBE, CF, that BISS had given him a "bad recommendation" on his "background search." CHAMBERLAND called BISS and spoke with PALMIERI, who told him that BISS had been "going through a lot of pain recently," and that CHAMBERLAND had also "gone through a lot of pain recently," because of CHAMBERLAND. CHAMBERLAND asked PALMIERI about his comments to LABBE, and PALMIERI advised that he did not know that CHAMBERLAND had applied for a job (Exhibit 3).

Allegation No. 1: CHAMBERLAND was Terminated by BISS, on July 17, 1996, for Raising Safety Concerns

Review of Documentation

Exhibit 11 is a copy of the "Gerald Chamberland Discipline Log," for the period of April 26, 1990, to July 11, 1996.

Exhibit 12 is a copy of a Memorandum to Jim Pandolfo - Connecticut Yankee and Chris Bellamy - BISS, dated July 16, 1996, Subject: "Connecticut Yankee Climate/Attitude Assessment. The document discloses that 50% of the guard force had participated in individual meetings that were held on June 12 and June 13, 1996. A category titled "Respect," disclosed that, "Majority of supervisors do not treat people with civility and respect - worst offender Sergeant Jerry Chamberlain [sic], BISS - something is going to happen if action is not taken on him and [REDACTED] for Conn. Yankee" (p. 2).

Exhibit 13 is a copy of an "Incident Sheet," for CHAMBERLAND. The document discloses that on March 29, 1993, "Officer Chamberland noted a wire being off an insulator on EF9 & took the appropriate actions. Job well done" (p. 9).

Summary

The following individuals were interviewed by OI on the dates indicated regarding the allegation that CHAMBERLAND was terminated by BISS on July 17, 1996, for raising a safety concern.

<u>Name</u>	<u>Position</u>	<u>Date of Interviews</u>
Joan Christine BELLAMY	Chief of Security, BISS, CY	February 5, 1997
Tammy L. BUNKER	Lieutenant, BISS	February 5, 1997
Gerald CHAMBERLAND	former Sergeant, BISS	January 7 & 8, 1997
Brian K. COPPERTHITE	Sergeant, BISS	February 12, 1997
Wanda DALLING	Personnel Specialist, BISS	February 5, 1997
Lee DEVOID	Sergeant, BISS	February 12, 1997
Andre M. DOIRON	Sergeant, BISS	February 12, 1997

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William J. EAGER	Security Officer, BISS	February 5, 1997
Melody A. FLETCHER	Sergeant, BISS	February 12, 1997
Joseph GAROFALO	Sergeant, BISS	February 5, 1997
James J. PALMIERI	Regional Manager, BISS	February 4, 1997
Rosemary PEKAROVIC	Sergeant, BISS	February 12, 1997
Charles F. RIVAL	Training Sergeant, BISS	February 12, 1997
Francis J. SOKOLOWSKI	Lieutenant, BISS	February 12, 1997
Walter R. THOMA	District Manager, BISS	February 4, 1997

The testimony provided by these individuals was reviewed to determine if CHAMBERLAND had been terminated by BISS on July 17, 1996, for raising a safety concern.

In addition, various documents related to this allegation, which are listed in the Exhibits Section of this report, were also reviewed. Copies of witness interviews and documents obtained by OI:RI are attached as exhibits to this report.

AGENT'S NOTE: CHAMBERLAND's personnel file and site file were provided to OI. Due to the volume of the documents, they are not attached to this report as an exhibit, but are maintained in OI files.

Evidence

CHAMBERLAND did not in any way report the fact that he believed that [REDACTED] had not properly tested a microwave e-field after repairs had been made. EAGER (Exhibit 23), who CHAMBERLAND thought was present during the test, did not recall being with CHAMBERLAND for the test. 7C

Interviews with CHAMBERLAND's peers disclosed that many people thought that he was technically competent, but did not have the necessary interpersonal skills to be a supervisor. A number of CHAMBERLAND's peers, COPPERTHITE (Exhibit 21), DOIRON (Exhibit 22), FLETCHER (Exhibit 23) and PEKAROVIC (Exhibit 27), testified that CHAMBERLAND frequently talked about going to the NRC [REDACTED] 7C

[REDACTED] CHAMBERLAND told OI that he had not gone to the NRC and had no reason why he did not. DOIRON, who encouraged CHAMBERLAND to apply for the sergeant promotion, testified that he could see CHAMBERLAND's termination coming. DOIRON testified that what hurt CHAMBERLAND were his interpersonal skills and attitude.

Allegation No. 2: CHAMBERLAND was Being "Blackballed" by BISS for Raising a Safety Concern

Review of Documentation

Exhibit 10 is a copy of a memorandum to File, from PALMIERI, dated January 28, 1997, Subject: "Telcon With Gerry Chamberland." The memorandum disclosed that CHAMBERLAND wanted to know why BISS was "blackballing" him. CHAMBERLAND said that he had dropped his lawsuit because he wanted to get on with his

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life. CHAMBERLAND applied for a position at Colt Firearms and was advised that they would not hire him because of an "awful" reference from BISS. PALMIERI told CHAMBERLAND that he did not know what he was talking about and knew nothing of a job reference. CHAMBERLAND again asked PALMIERI why he was being "blackballed" by BISS. PALMIERI advised CHAMBERLAND that due to the current legal situation, he needed to direct CHAMBERLAND's questions to Guy THOMAS [Director, Labor Relations, Regulated Services Business Unit, BISS]. CHAMBERLAND concluded his call by saying that he "guessed" he needed to go to the attorney general and the media.

Summary

The following individuals were interviewed by OI on the dates indicated regarding the allegation that CHAMBERLAND was being "blackballed" by BISS for raising a safety concern.

<u>Name</u>	<u>Position</u>	<u>Date of Interviews</u>
Julie DALE	Supervisor, Colt Firearms	March 24, 1997
Al LABBE	Sergeant, Colt Firearms	March 24, 1997
James J. PALMIERI	Regional Manager, BISS	February 4, 1997
George VEZINA	Director of Security, CF	March 24, 1997

Evidence

PALMIERI (Exhibit 19) and VEZINA (Exhibit 30) both testified that the only information released on an employment check was the dates of employment. LABBE (Exhibit 31) did a preliminary interview with CHAMBERLAND, but did not contact BISS. DALE (Exhibit 32) reviewed CHAMBERLAND's application file and advised that there was no indication that any reference check was done on CHAMBERLAND. DALE advised that if an individual is not hired by CF, they are advised that the job went to someone with more experience. They would not be told they were not hired because of a poor reference.

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Investigation Status Record, dated December 3, 1996.
2	Copy of Allegation Receipt Report, RI-96-A-0257, dated October 30, 1996.
3	Copy of "Telephone Record" Allegation Receipt Report, dated January 28, 1997.
4	Copy of a letter to Sir/Madam, from CHAMBERLAND, dated November 8, 1996.
5	Copy of a letter to CHAMBERLAND, from JACKSON, dated January 7, 1997.
6	Copy of a Memorandum to THOMA, from BELLAMY, dated July 16, 1996.
7	Copy of a Memorandum from THOMA, dated July 17, 1996.
8	Copy of "Borg-Warner Protective Services, Notice of Termination of Employment," dated September 3, 1996.
9	Copy of "Borg-Warner Protective Services, Notice of Termination of Employment," undated.
10	Copy of a Memorandum to File, from PALMIERI, dated January 28, 1997.
11	Copy of "Gerald Chamberland, Discipline Log," for the period April 1990 to July 11, 1996.
12	Copy of a Memorandum to PANDOLFO and BELLAMY, from THOMA, dated July 16, 1996, with attachment.
13	Copy of Incident Sheet for CHAMBERLAND, for the period of February 1, 1990, to October 1995.
14	Transcript of Interview with CHAMBERLAND, dated January 7, 1997.
15	Transcript of Interview with CHAMBERLAND, dated January 8, 1997.
16	Transcript of Interview with BELLAMY, dated February 5, 1997.
17	Transcript of Interview with BUNKER, dated February 5, 1997.
18	Transcript of Interview with THOMA, dated February 4, 1997.

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- 19 Transcript of Interview with PALMIERI, dated February 4, 1997.
- 20 Transcript of Interview with DALLING, dated February 5, 1997.
- 21 Interview Report of COPPERTHITE, dated February 12, 1997
- 22 Interview Report of DEVOID, dated February 12, 1997.
- 23 Interview Report of DOIRON, dated February 12, 1997.
- 24 Interview Report of EAGER, dated February 5, 1997.
- 25 Interview Report of FLETCHER, dated February 12, 1997.
- 26 Interview Report of GAROFALO, dated February 12, 1997.
- 27 Interview Report of PEKAROVIC, dated February 12, 1997.
- 28 Interview Report of RIVAL, dated February 12, 1997.
- 29 Interview Report of SOKOLOWSKI, dated February 12, 1997.
- 30 Telephone Conversation Record with VEZINA, dated March 24, 1997.
- 31 Telephone Conversation Record with LABBE, dated March 24, 1997.
- 32 Telephone Conversation Record with DALE, dated March 24, 1997.

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CASE No. **1-96-048**

**United States
Nuclear Regulatory Commission**



Report of Investigation

HADDAM NECK PLANT:

**Discrimination Against a Senior Engineer for Raising Safety
Concerns**

Office of Investigations

Reported by OI: **RI**

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B/b

Title: HADDAM NECK PLANT:

DISCRIMINATION AGAINST A SENIOR ENGINEER FOR RAISING
SAFETY CONCERNS

Licensee:

Connecticut Yankee Atomic Power Company
P.O. Box 270
Hartford, Connecticut 06141-0270

Docket No.: 50-213

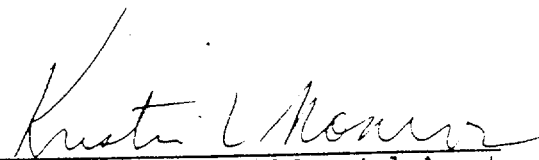
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Report Date: August 5, 1997

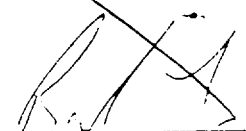
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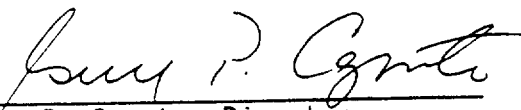
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Office of Investigations
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Barry R. Letts, Director
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Field Office, Region I

Approved by:


Guy P. Caputo, Director
Office of Investigations

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TABLE OF CONTENTS

	<u>Page</u>
LIST OF INTERVIEWEES	3
DETAILS OF INVESTIGATION	5
Applicable Regulations	5
Purpose of Investigation	5
Background	5
Interview of Allegor	6
Allegation: Discrimination Against a Senior Engineer For Raising Safety Concerns.	8
Review of Documentation	8
Testimonial Evidence	9
SUPPLEMENTAL INFORMATION	17
LIST OF EXHIBITS	19

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LIST OF INTERVIEWEES

Exhibit

CALDERONE, John W., Jr., Senior Engineer, Technical Support, Millstone Nuclear Power Station, Unit 1 (MP1)	12
GALLOWAY, Thomas Maintenance Manager, MP1, former Supervisor, Technical Support, Connecticut Yankee (CY)	10
KRINZMAN, Andrew L., former Senior Engineer, Engineering Technical Support, CY	5
LeBARON, Lance, Senior Engineer, Technical Support, MP3, former Supervisor, Systems 1 Group, Engineering Technical Support, CY	9
PALMIERI, Raymond, Manager, Technical Support, MP1, former Manager, Engineering Technical Support, CY	11

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DETAILS OF INVESTIGATION

Applicable Regulations

10 CFR 50.5: Deliberate misconduct (1996 Edition)

10 CFR 50.7: Employee protection (1996 Edition)

Purpose of Investigation

This investigation was initiated by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region I Field Office, on December 24, 1996, to determine whether Andrew L. KRINZMAN, former Senior Engineer, Engineering Technical Support, Connecticut Yankee Atomic Power Company (CY), Haddam Neck Plant, was selected for termination in the Northeast Utilities System (NU) workforce reduction on January 11, 1996, because he raised safety concerns (Exhibit 1). X

Background



On March 5, 1996, an NRC Task Force began work on a comprehensive review of NU's workforce reduction process; as it was applied to employees who had previously engaged in protected activities. The Task Force was seeking to determine if there was sufficient evidence to suggest that it was likely the process was utilized to discriminate against such employees.

The Task Force reviewed records related to approximately 95 individuals that were terminated in January 1996 and met with NU officials. The Task Force conducted an in-depth review of 21 of those individuals who were terminated, including interviews of the effected individuals and the supervisory personnel involved in the decisions to terminate the employees. The Task Force presented an oral report to the NRC Executive Director for Operations (EDO) in April 1996.

On September 11, 1996, the NRC received an allegation that KRINZMAN had been [REDACTED] in January 1996 for raising safety concerns. In a letter to KRINZMAN, dated November 25, 1996, from the NRC, KRINZMAN was advised that the NRC had been evaluating the circumstances surrounding the January 11, 1996, termination of a number of NU employees. KRINZMAN was asked to contact the 7C

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NRC if he wanted to be interviewed to describe the circumstances that led to his termination. On December 20, 1996, KRINZMAN telephonically contacted Wayne LANNING, Deputy Director for Inspections, Special Projects Branch, NRC, and advised that he wanted to be interviewed (Exhibits 2 and 3).

Interview of Alleger (Exhibit 5)

KRINZMAN was interviewed by OI on January 8, 1997, and stated substantially as follows:

KRINZMAN was employed by CY from December 1992 until he was terminated on January 11, 1996. Prior to December 1992, KRINZMAN was a contractor who worked at CY for six years. At the time of his termination, KRINZMAN's supervisor was Thomas GALLOWAY, Supervisor, Systems Engineering I, Engineering Technical Support, CY. GALLOWAY reported to Raymond PALMIERI, Manager, Engineering Technical Support, CY.

On January 11, 1996, KRINZMAN was advised by GALLOWAY and PALMIERI that he was terminated, and that his termination was a result of the matrix process. GALLOWAY and PALMIERI refused to go into any details (pp. 3-7).

KRINZMAN was unhappy about the termination, but not "totally shocked." He had felt that he was a possible candidate for termination based upon his experience during the past year and a half, and because of the changes in the environment that came about when GALLOWAY took over supervision of the group in January 1994 (pp. 10 and 11).

AGENT'S NOTE: KRINZMAN had been the acting group supervisor from approximately August 1993 until January 1994.

When KRINZMAN first started working at CY, he felt that there was an environment where individuals were never hesitant or reluctant to express opinions, whether they were contrary to, or in favor of, management decisions. With the arrival of the new management team [GALLOWAY, PALMIERI, and John HASELTINE, Engineering Director] in January 1994, a new term, team player, became prevalent (pp. 11-13).

KRINZMAN said that HASELTINE promoted an atmosphere of team players. KRINZMAN believed that HASELTINE viewed a team player as someone who went along with management decisions. According to KRINZMAN, GALLOWAY viewed a team player as someone who would not question management decisions. KRINZMAN did not think that HASELTINE held it against someone for expressing a dissenting opinion. However, KRINZMAN believed that GALLOWAY would hold it against someone for not being a team player. KRINZMAN thought that was "the real distinction" between HASELTINE and GALLOWAY (pp. 11-16).

GALLOWAY expected KRINZMAN, as the senior person in the group, to accept management decisions without question, regardless of whether he believed them to be right or wrong. During one of GALLOWAY's morning meetings (nfi), KRINZMAN had an "involuntary facial reaction" to an announcement that GALLOWAY

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was making. GALLOWAY stopped the discussion and asked KRINZMAN if he had a problem. Following the meeting, GALLOWAY pulled KRINZMAN into his office and closed the door. GALLOWAY was angry and told him that he was in no position to question management decisions. Once a decision was made, it should be accepted and promoted, not questioned (pp. 11-18).

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KRINZMAN said that he "vented" about going to the NRC, but he never did so (pp. 25 and 26).

At some point following KRINZMAN's conversation with PALMEIRI, GALLOWAY took away the Auxiliary Feedwater System (AFS), one of KRINZMAN's two systems, and gave it to another engineer (nfi). GALLOWAY told KRINZMAN that he was taking away the system to ease his load. According to KRINZMAN, the AFS had been the most troubled system in the plant when he inherited it. His other system, Feedwater, also had a number of problems. However, by the time GALLOWAY took away the AFS, the systems were performing a little better, KRINZMAN had started to catch up, and the backlog was reducing (pp. 26-30).

KRINZMAN does not know if PALMEIRI told GALLOWAY that KRINZMAN was considering going to the NRC. However, KRINZMAN felt that there was "more of a chill" in GALLOWAY's relationship with him as the year progressed (p. 35).

Regarding his performance appraisal for performance year 1994, GALLOWAY called KRINZMAN into his office and handed him the appraisal to read. When GALLOWAY

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saw KRINZMAN's reaction, GALLOWAY said that although he had given KRINZMAN

When asked by OI if he perceived GALLOWAY's statement as a threat, KRINZMAN said "absolutely." KRINZMAN pointed out to GALLOWAY that he had focused on one or two specific weaknesses and had ignored the quantity and quality of the work that he had done. KRINZMAN felt that GALLOWAY had held it against him because he had identified some system problems that led to a couple of licensee event reports (LER) and system down time because of increased testing. KRINZMAN walked away from his conversation with GALLOWAY feeling that he was paying the price for being outspoken (pp. 40-44).

KRINZMAN said that he later (nfi) spoke with PALMIERI. According to KRINZMAN, PALMIERI said that he had disagreed with the appraisal and had asked GALLOWAY to rewrite it. KRINZMAN believed that GALLOWAY [REDACTED] KRINZMAN did not have a copy of the first version of the appraisal (pp. 43 and 44).

In April or May of 1996, LeBARON asked KRINZMAN if he was interested in returning to CY. They had a long conversation and discussed why KRINZMAN had been terminated. LeBARON had asked GALLOWAY why KRINZMAN was terminated. GALLOWAY told LeBARON that he had felt that KRINZMAN, as a senior member of the group, should not only have not disagreed with any management decision, but should have acted as the champion or cheerleader for any management decision. According to KRINZMAN, GALLOWAY told LeBARON that he had been dissatisfied with KRINZMAN's lack of willingness to do that (pp. 47 and 48).

KRINZMAN thought that it would be difficult for GALLOWAY to justify that there was anything involved in his performance that could be used as a reason for his termination (p. 46).

AGENT'S NOTE: Upon conclusion of the transcribed portion of the interview, KRINZMAN said that he was extremely concerned about speaking with the NRC and about an NRC investigation. KRINZMAN was worried that because the NRC was looking into his termination, it could impact his future at [REDACTED] where he is currently employed. [REDACTED] NRC

Allegation: Discrimination Against KRINZMAN for Raising Safety Concerns

Review of Documentation

The following documents were reviewed regarding the allegation that KRINZMAN was discriminated against because he raised safety concerns.

Exhibit 6 is a copy of an NU provided "Workforce Reduction Matrix." for Technical Support, CY. [REDACTED]

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Exhibit 7 is a copy of KRINZMAN's "NU Performance Management Program," for performance year 1993. The appraisal discloses that [REDACTED]

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Exhibit 8 is a copy of KRINZMAN's "NU Performance Management Program," for performance year 1994. The appraisal discloses that [REDACTED]

7C

Testimonial Evidence

The following individuals were interviewed regarding the allegation that KRINZMAN was discriminated against because he raised safety concerns.

Interview of LeBARON (Exhibit 9)

LeBARON was interviewed by OI on May 1, 1997, and stated substantially as follows:

LeBARON has been a Senior Engineer, Technical Support Department, MP3, since February 1997. LeBARON was the Supervisor, Systems 1 Group, Technical Support, CY, for approximately ten months. Prior to that, he was a Senior Engineer, Systems 1 Group, Technical Support, CY.

LeBARON advised that KRINZMAN did not get along well with GALLOWAY. KRINZMAN had been the acting supervisor of the Systems 1 Group before GALLOWAY was selected to be the supervisor. [REDACTED]

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LeBARON felt the company was trying to make improvements [REDACTED]

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[REDACTED] 7C

LeBARON felt that he could disagree with GALLOWAY, and did not think that GALLOWAY created a chilling atmosphere. LeBARON did not believe, nor did he observe, GALLOWAY hold it against any individual who had a dissenting opinion. GALLOWAY did not appreciate KRINZMAN's general, cynical attitude and approach to management plans. If KRINZMAN had specific concerns, he could have gone to GALLOWAY, who would have listened. LeBARON did not appreciate KRINZMAN's opinion that the company was doomed, that management was hopelessly inept and should be ignored. LeBARON saw that as destructive, futile, and a waste of time (pp. 28-31 and 40).

LeBARON described KRINZMAN as a team player when it came to keeping the plant on line. KRINZMAN supported things that he believed in, understood, and controlled (pp. 28-31).

LeBARON recalled KRINZMAN also making cynical comments when Mike BROTHERS was the group supervisor. BROTHERS was quick, forceful, and persuasive, because he would cut off KRINZMAN's comment, acknowledge it, but tell him that was not what we were going to do. GALLOWAY was not as persuasive or as forceful as BROTHERS (p. 33).

LeBARON recalled a conversation with KRINZMAN after his termination. It was KRINZMAN's opinion that GALLOWAY had it in for him. LeBARON tried to explain to KRINZMAN that he did not think that was the case (p. 34).

LeBARON also had a conversation with GALLOWAY after KRINZMAN's termination. GALLOWAY provided some specific examples about why KRINZMAN was not a team player. However, LeBARON could not recall those examples. LeBARON said that what he recalled of his conversation with GALLOWAY was that GALLOWAY gave some examples that demonstrated that KRINZMAN was not a supportive person, not the kind of person that was going to help get the company to the year 2000, as he did not want to make changes (pp. 37-39).

Interview of GALLOWAY (Exhibit 10)

GALLOWAY was interviewed by OI on June 5, 1997, and stated substantially as follows:

GALLOWAY has been employed by NU for approximately 16 years. He has been the Maintenance Manager, MP1, since April 1996. GALLOWAY's prior position was Supervisor, Engineering Technical Support, CY.

GALLOWAY thought that his association with KRINZMAN started off "pretty well." When GALLOWAY assumed the position, he realized that KRINZMAN had been the

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incumbent. GALLOWAY was sympathetic to KRINZMAN because he had been in a similar position (pp. 15 and 16).

On a performance basis, KRINZMAN was probably one of GALLOWAY's



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GALLOWAY acknowledged that KRINZMAN was technically competent (pp. 16-21).

GALLOWAY denied that he expected KRINZMAN, as a senior engineer in the group, to accept management decisions without question. GALLOWAY never took the position that his people were not allowed to ask for clarification and question why a certain position had been taken (pp. 23-26).

KRINZMAN was the system engineer for both the AFS and Main Feedwater systems. GALLOWAY would repeatedly go to KRINZMAN and tell him that he had a number of assignments past due. KRINZMAN's attitude was that it was not a big deal because he knew where things were, or he had a lot on his plate. GALLOWAY would tell KRINZMAN that he had to keep his work list current and would offer to reassign some of his work load. On more than one occasion, GALLOWAY offered to do a realignment of system responsibilities, because the two that KRINZMAN had seemed to be the most troublesome, while he was the engineer in charge of the systems. KRINZMAN did not take advantage of GALLOWAY's offer. GALLOWAY subsequently assigned the AFS to another engineer, but he was not clear whether that happened before or after the [January 1996] layoff took place (pp. 26-28).

GALLOWAY recalled that he filled in the numbers on the workforce reduction matrix for his group. After he completed the scores, GALLOWAY and his counterpart, Pierre L'HEUREUX, met and discussed the scores. GALLOWAY thought that there were minimal, if any, changes made between the two of them, based on their rankings. The matrix was then turned into PALMIERI. GALLOWAY did not recall having a formal discussion with PALMIERI about the matrix. PALMIERI may have had some questions about the individual ratings, but that was the extent of it. GALLOWAY did not see the matrix that PALMIERI completed, which merged the ratings of the other two technical support groups (pp. 30-36).

GALLOWAY did not put any "X" on the matrix. GALLOWAY, and the other supervisor, were the first round of information for rating individuals. GALLOWAY did not have any knowledge of what took place after that, regarding who made the decision about what ratings should or should not be adjusted, or how deep the cuts should be. That took place above GALLOWAY (pp. 48 and 50).

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GALLOWAY could not recall specific numerical ratings for KRINZMAN, but thought that [REDACTED]

[REDACTED] KRINZMAN. There were times that KRINZMAN made meaningful contributions and offered solutions, but in general, he would tend to oppose new prerogatives and new initiatives from management (pp. 37 and 39).

GALLOWAY did not recall having any conversation with LeBARON about why KRINZMAN had been chosen for the layoff. GALLOWAY did recall having a conversation subsequent to the layoff, where he believed he indicated to LeBARON that one of KRINZMAN's [REDACTED]. GALLOWAY did not recall characterizing KRINZMAN's termination to LeBARON being a result of KRINZMAN not being a team player (pp. 41, 46, and 47).

GALLOWAY did not recall making a specific comment that he could have given KRINZMAN [REDACTED]. GALLOWAY thought that he had made it clear to KRINZMAN during the review [for performance year 1994] that there were a couple of specific areas that he needed to concentrate on that were undermining his overall performance. GALLOWAY would not characterize that as a threat. It was his prerogative as a manager to tell KRINZMAN the areas where he needed to improve (pp. 42-45).

GALLOWAY also did not recall two distinct iterations of the 1994 performance year appraisal. GALLOWAY said that it would be typical for him to give the performance reviews to his chain of command for review or comment. GALLOWAY did not recall an instance where he had withdrawn a copy of a performance appraisal and was directed to rewrite it. GALLOWAY thought that it was entirely likely that PALMIERI could have commented about what had been written on the original draft (pp. 42-45).

GALLOWAY would not characterize KRINZMAN as the only outspoken person in his group in terms of management issues [REDACTED].

GALLOWAY denied that he had been aware that KRINZMAN was contemplating talking to the NRC. GALLOWAY did not know if KRINZMAN had raised safety concerns. He was not aware of any action taken against KRINZMAN as a result of such activity (pp. 28 and 47).

GALLOWAY was a little surprised that KRINZMAN was laid off. Based on the information and the rumors that had been circulating about how deep the cut was going to be, GALLOWAY did not think that the cut was going to be deep enough to affect KRINZMAN (p. 49).

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Interview of PALMIERI (Exhibit 11)

PALMIERI was interviewed by OI on June 18, 1997, and stated substantially as follows:

PALMIERI has been employed by NU for 21 years. He has been the Manager, Technical Support, MP1, since March 1996. Prior to that, PALMIERI was the Manager, Technical Support, CY, from December 1993 to February 1996.

PALMIERI described KRINZMAN as a knowledgeable engineer, who tended to be very detailed. [REDACTED] 7C

There were two occasions, probably after KRINZMAN received his performance appraisal, when PALMIERI and GALLOWAY talked to him about how he was so focused on a particular issue that he never moved on to something else. PALMIERI could not recall the specific issue, but thought that it might have been AFS. There had been some concern by John HASELTINE, Engineering Director, CY, or Jere LaPLATNEY, CY Vice President, about what was going on and where was KRINZMAN on the issue (pp. 13-16).

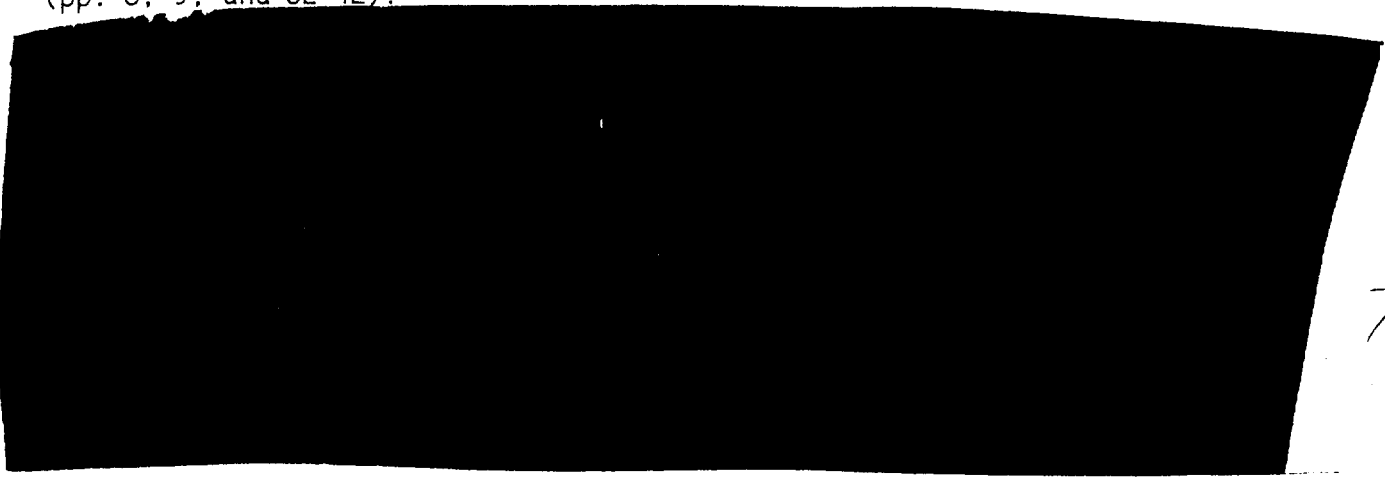
KRINZMAN's association with GALLOWAY became "somewhat strained." It was not that way at the beginning, but somewhere along the way the association deteriorated. GALLOWAY and KRINZMAN were either not communicating or there was some strain between the two as result of KRINZMAN not performing to GALLOWAY's expectations. GALLOWAY was a demanding individual who had extremely high standards and expectations (pp. 25-27).

PALMIERI recalled that KRINZMAN was the acting group supervisor until GALLOWAY got the position. During one of the early conversations between PALMIERI and KRINZMAN, KRINZMAN said that [REDACTED] PALMIERI thought that KRINZMAN felt that he should have been the supervisor, and that he questioned why the management organization did not recognize him when they went through the reengineering process. PALMIERI thought that KRINZMAN [REDACTED] but he did not think that it lasted long. PALMIERI did not know if the fact that GALLOWAY got the position that KRINZMAN had been acting in, strained the relationship, or if it was because KRINZMAN was not performing to GALLOWAY's expectations (pp. 27-28 and 67). 7C

PALMIERI completed the workforce reduction matrix for KRINZMAN's group, but the supervisors did the actual rating. GALLOWAY did the rating for KRINZMAN's group. PALMIERI thought that he sat down with Clint GLADDING, Design Manager, CY, and the supervisors of Design and Tech Support, to review the matrix numbers. PALMIERI added that if the review did not occur as a group, then he knew that he, GLADDING, and HASELTINE sat down and reviewed the numbers to make sure there were "checks and balances." Following either one of those scenarios, the completed workforce reduction matrices went, without an "X," to the director level (pp. 8, 9, and 32-41).

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The next step in the process would have been a director level meeting, where HASELTINE, LaPLATNEY, Fred DACIMO, VP Engineering, and John SULLIVAN, Acting Services Director, reviewed the matrices. According to PALMIERI, the final cuts came from the level of HASELTINE and LaPLATNEY. When they were made, PALMIERI placed the "X" and social security number next to KRINZMAN's name (pp. 8, 9, and 32-42).



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PALMIERI did not recall a conversation with KRINZMAN in which KRINZMAN said that he needed or wanted to go to the NRC about his concern. PALMIERI added that he would not hesitate to say that the discussion on the [REDACTED] probably took place; however, PALMIERI did not recall anything where KRINZMAN said that he was so concerned that he thought he may have to go to the NRC. PALMIERI never had any conversations with KRINZMAN that were elevated to any crisis type level. PALMIERI has "never had anybody in my career tell me that" (pp. 55-60).

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PALMIERI acknowledged that GALLOWAY took away one of the two systems that KRINZMAN had been working on, probably because of performance. PALMIERI did not know when the system would have been taken away from KRINZMAN. KRINZMAN was not getting the system to the point that GALLOWAY expected, therefore, a change was made. PALMIERI remembered that KRINZMAN was "extremely happy" with that change. PALMIERI commented that KRINZMAN's perception that the system was taken away because of his conversation with PALMIERI about the [REDACTED] had "no reality to it whatsoever" (pp. 61-63).

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While he could not recall specifics, PALMIERI acknowledged that he did ask GALLOWAY to rewrite a portion of KRINZMAN's performance appraisal. GALLOWAY had very high standards, was very demanding of his whole group, and expected everyone to be outstanding. PALMIERI did ask GALLOWAY to look at the wording of the appraisal (nfi) and what GALLOWAY had written (pp. 63-65).

PALMIERI did not think that GALLOWAY would hold anything against KRINZMAN, because he (KRINZMAN) did not always support management decisions, in as much as GALLOWAY himself would not hesitate to comment on what came down from

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management. PALMIERI said that KRINZMAN and GALLOWAY were "very similar in that regard" (pp. 67-69).

PALMIERI was not aware of KRINZMAN raising any type of safety concern to the NU Nuclear Safety Concerns Program or to the NRC.

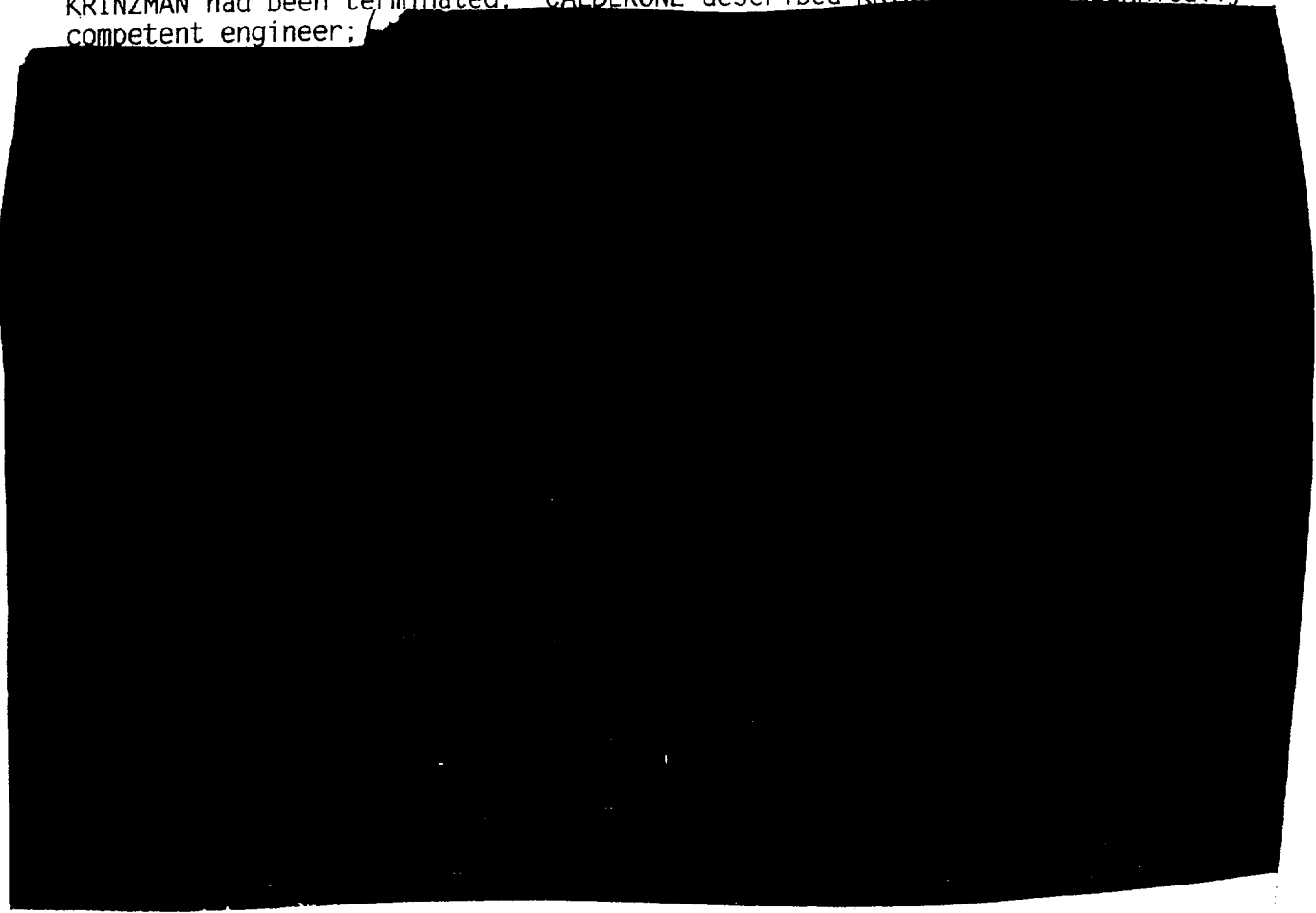
PALMIERI had no reason to believe that KRINZMAN was terminated for any reason other than job performance issues (p. 70).

Interview of CALDERONE (Exhibit 10)

CALDERONE was interviewed by OI on June 26, 1997, and stated substantially as follows:

CALDERONE has been employed by NU since February 1982. He worked at CY from 1986 until January 1997, when he became a Senior Engineer, Technical Support, MP1.

CALDERONE advised that all "the guys" were surprised when they found out that KRINZMAN had been terminated. CALDERONE described KRINZMAN as a technically competent engineer:



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When asked if KRINZMAN was outspoken and somewhat negative regarding management decisions, CALDERONE said, "we all said stuff like that." CALDERONE said that no one, including KRINZMAN, was retaliated against for voicing their opposition to management decisions. In public, there did not appear to be any conflict between KRINZMAN and GALLOWAY that seemed unusual.

CALDERONE said that if KRINZMAN had been terminated because of some safety related allegation that he had raised, CALDERONE would be as surprised as "hell." The environment at CY regarding raising issues to management, whether they were technical in nature or business related, was completely open.

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SUPPLEMENTAL INFORMATION

This Report of Investigation will be provided to the United States Attorney's Office, New Haven, Connecticut, for their review.

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Investigation Status Record, dated December 24, 1996.
2	Copy of Allegation Receipt Report, Allegation No. RI-96-A-0222, dated September 11, 1996.
3	Copy of a letter to KRINZMAN, from LANNING, dated November 25, 1996.
4	Copy of NU memorandum to BUSCH, from RILEY, dated January 9, 1996, with attachments.
5	Transcript of Interview with KRINZMAN, dated January 8, 1997.
6	Copy of "Workforce Reduction Matrix" for KRINZMAN's group, dated October 13, 1995.
7	[REDACTED]
8	[REDACTED]
9	Transcript of Interview with LeBARON, dated May 1, 1997.
10	Transcript of Interview with GALLOWAY, dated June 5, 1997.
11	Transcript of Interview with PALMIERI, dated June 18, 1997.
12	Interview Report of CALDERONE, dated June 26, 1997.

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CASE No. 1-97-002

United States
Nuclear Regulatory Commission



Report of Investigation

MILLSTONE UNIT 1:

Discrimination Against a Senior Engineer for Raising Safety
Concerns Regarding the LPCI Heat Exchanger Tube Scale

Office of Investigations

Reported by OI:

RI

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 7C
EOIA- 99-98

6/7

Title: MILLSTONE UNIT 1:

DISCRIMINATION AGAINST A SENIOR ENGINEER FOR RAISING SAFETY
CONCERNS REGARDING THE LPCI HEAT EXCHANGER TUBE SCALE

Licensee:

Northeast Nuclear Energy Company
P.O. Box 270
Hartford, Connecticut 06141

Docket No.: 50-245

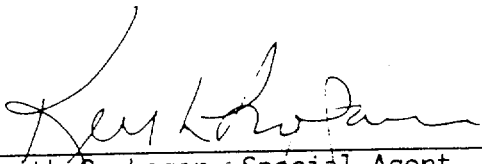
Case No.: 1-97-002 =

Report Date: September 23, 1997


Control Office: OI:RI

Status: CLOSED

Reported by:


Keith G. Logan, Special Agent
Office of Investigations
Field Office, Region I

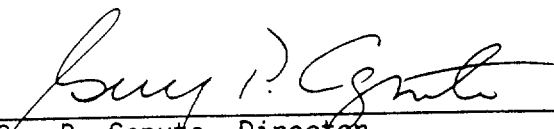
Reviewed by:


Barry R. Letts, Director
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Field Office, Region I

Participating Personnel:

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Field Office, Region I

Approved by:


Guy P. Caputo, Director
Office of Investigations

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TABLE OF CONTENTS

	<u>Page</u>
LIST OF INTERVIEWEES	3
DETAILS OF INVESTIGATION	5
Applicable Regulations	5
Purpose of Investigation	5
Background	5
Interview of Allegor	5
Coordination with Regional Staff	10
Review of Documentation	10
Allegation (Discrimination Against a Senior Engineer for Raising Safety Concerns About LPCI Heat Exchanger Tube Scale)	10
Evidence Analysis	10
SUPPLEMENTAL INFORMATION	17
LIST OF EXHIBITS	19

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LIST OF INTERVIEWEES

Exhibit

CHATFIELD, Larry, Project Director, Engineering Assurance Oversight (former Director, Nuclear Safety Concerns Program), NU	25 & 26
CIZEK, Albert, former Senior Engineer, Nuclear Safety Concerns Program, NU	2
DOUGHERTY, Dan, Engineer, Condition Based Maintenance Group, Units 1-3, Millstone, NU	4
HARRIS, Drexel, NRC Coordinator Millstone Unit 1, Nuclear Licensing Services, NU	17 & 32
HART, Richard, Senior Engineer, Programs & Engineering Standards, Millstone, NU	31
JAIN, Nirmai Kumai, Senior Consulting Engineer, ABB Combustion Engineering Inc. (former Senior Engineer, Safety Analysis Branch, Safety Analysis and Integration, Millstone, NU)	29
KRISTIAN, Paul, Terminal Generator Systems Manager, Technical Support, Unit 1, Millstone, NU	5
LAW, John G., Outage Supervisor, Unit 1, Millstone, NU	8
MORGAN, Ed, Director, Employee Concerns Program, NU	30
PALMIERI, Raymond J., Manager, Technical Support, Unit 1, Millstone, NU	28
QUINN, Mike, Supervisor, Technical Support Group, Unit 1, Millstone, NU	7
REARDON, Gerald, Senior Engineer, Nuclear Engineering Group, Millstone, NU	9 & 23

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SHOLLER, Robert, Operations Unit Supervisor Candidate, Unit 1, Millstone, NU	20
TEMPLE, William, Project Manager, Regulatory Affairs Department, Millstone, NU	18
THULL, Trudy, System Engineer, System Engineering Group, Unit 1, Millstone, NU	6
THUMM, Brian, Associate Engineer, Nuclear Licensing Services, Millstone, NU	21
VanVOORHIS, Gary, Manager, Employee Concerns Program, NU	22
VENABLE, Mark, acting Nuclear Safety Engineering Supervisor, Millstone, NU	19
WAGNECZ, Laura, Senior Engineer, Technical Support Engineering, Unit 1, Millstone, NU	10

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DETAILS OF INVESTIGATION

Applicable Regulations

10 CFR 50.5: Deliberate misconduct

10 CFR 50.7: Protected activities (1996 Edition)

Purpose of Investigation

This investigation was initiated on January 15, 1997, to determine whether there was discrimination against a senior engineer at the Millstone Nuclear Power Station (Millstone), Northeast Utilities (NU), Waterford, CT, as a result of a concern he raised about the Low Pressure Coolant Injection (LPCI) heat exchanger tubes in Unit 1 (Exhibit 1).

Background

In a February 1996 conversation with Ken JENISON, NRC Resident Inspector, Al CIZEK, a Senior Engineer at Millstone, raised several issues. One issue concerned the "impact of the operability of the Unit 1 low pressure coolant injection heat exchangers as a result of scale." This was confirmed by CIZEK in a memorandum to JENISON dated February 8, 1996 (Exhibit 11), and was one of several concerns acknowledged in an NRC letter to CIZEK dated August 19, 1996 (Exhibit 16).

AGENT'S NOTE: CIZEK [REDACTED] 7C

Interview of Allegor (Exhibit 2)

On January 29, 1997, CIZEK was a Senior Engineer and Nuclear Technical Services Employee Concerns Representative, with NU's Employee Concerns Program (ECP) at Millstone, Waterford, CT. CIZEK was interviewed in the presence of his attorney, Ernest HADLEY, at 1040B Main Street, W. Wareham, MA 02576. In his position at Millstone, CIZEK reported to Ed MORGAN, Director, ECP, who reported to Dave GOEBEL, Vice-president, Nuclear Oversight. On March 24, 1997, CIZEK [REDACTED] 7C

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CIZEK indicated that as a result of his raising a concern about LPCI, he was harassed by NU when: (1) he was questioned about his ability to recognize scale and impeded heat transfer; (2) he was intentionally isolated when he was not included in the review cycle of a root cause evaluation report on the LPCI issue; and (3) NU used its response to an NRC allegation, made by him (CIZEK), as a reminder to others that he (CIZEK) was the "bad guy." CIZEK also believes that as a result of these three experiences, he has been "blacklisted" (Exhibit 2, p. 4 and Exhibit 12).

CIZEK advised OI that he became aware of the LPCI issue in mid-November, 1995, while he was still working in Engineering Services for Bo POKORA, Supervisor, and Matthew KUPINSKI, Manager. While on an assignment at Millstone during the Unit 1 outage, he (CIZEK) and Dan DOUGHERTY were doing check valve inspections. DOUGHERTY had been involved with the hydro-lazing of the Unit 1 heat exchangers. They met the Maintenance Supervisor, Jack LAW, who related a conversation with a maintenance mechanic, Ernie EMORY. CIZEK recalled that LAW told him EMORY checked the cleaning of LPCI heat transfer tubes with a flashlight. EMORY noticed an amount of buildup still remaining on the inside of the tubes after cleaning and brought this to the attention of LAW. EMORY thought that this might impede the heat transfer, because the scaling was still present after hydro-laser cleaning (Exhibit 2, pp. 18-22).

AGENT'S NOTE: LAW stated to OI that he did not recall discussing the LPCI issue with CIZEK, nor did he recall seeing ACR # 9801 (Exhibit 8, pp. 10, 11, and 16-18; and Exhibit 15).

CIZEK and DOUGHERTY checked the inside of the tubes. CIZEK indicated that he saw a lot of "stuff" on the tubes, when DOUGHERTY initially said that there was nothing. CIZEK was surprised that there was anything left in the tubes after they had been cleaned. At the time of this inspection, the plant was shutdown. CIZEK indicated that the actual effect of the scaling was unknown to him, but he expressed to DOUGHERTY his concern about the heat exchangers' ability to perform heat transfer while the scaling was on the tubes. CIZEK described the deposits, that were on the inner surface of the tubes, as white and blotchy; he also referred to this as scaling (Exhibit 2, pp. 28-33).

Approximately three days later, CIZEK again met with DOUGHERTY. CIZEK remembered that DOUGHERTY indicated that the heat exchangers would be tested near the end of the outage to ensure that there was no adverse affect from the build-up. CIZEK recalled DOUGHERTY advising him to check about the test. CIZEK did not find any scheduled test of the heat exchangers for scaling.

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When he reviewed a time-line on what was to take place during the outage, he did not see any reference to a test of the heat exchangers. CIZEK indicated that because of a 50.54(f) letter, the outage was extended into 1996 (Exhibit 2, pp. 38-54).

In February 1996, while discussing the LPCI issue with JENISON, CIZEK suggested that JENISON look at this subject during the course of an inspection. CIZEK believed that JENISON was going to address the LPCI heat exchanger issue. CIZEK also addressed his LPCI concern in a memorandum (Exhibit 11) to JENISON, which was dated February 8, 1996 (Exhibit 2, pp. 80-84).

At about the end of March 1996, CIZEK recalled DOUGHERTY telling him that he had no idea what the status of the test was. DOUGHERTY referred him to Trudy THULL, the LPCI system engineer, in order to check the status of the test. THULL had not scheduled it yet. She suggested CIZEK file an ACR to ensure that the issue would be addressed. CIZEK recalled that THULL was concerned about the scaling issue. CIZEK acknowledged that he should have written an ACR earlier, but because he thought that a test would be done, he did not see the need for it when the issue first arose. CIZEK stated that THULL declined to write an ACR and he wrote it (Exhibit 2, pp. 59-63; see also Exhibit 6, pp. 3-7 and Exhibit 15). On March 26, 1996, CIZEK prepared ACR #9801 which was signed by QUINN (Exhibit 15). CIZEK received an acknowledgement that the ACR was in the system and would be addressed (Exhibit 2, p. 66).

CIZEK stated that Laura WAGNECZ told him that the ACR got a lot of attention at the morning meeting. He perceived this to mean that the ACR was not well received. He felt that she was giving him a heads up, but not in a positive way. He provided JENISON with a copy of the ACR and, again, discussed the matter with him (Exhibit 2, pp. 72-79).

AGENT'S NOTE: WAGNECZ did not recall attending the morning meeting, nor did she recall making the comment to CIZEK as he claims (Exhibit 10, pp. 4-7).

On May 14, 1996, in a letter (Exhibit 14) from COOPER to FEIGENBAUM, the NRC referred two allegations back to NU. One of these concerns was CIZEK's LPCI allegation. On December 31, 1996, CIZEK wrote a letter (Exhibit 12) to Art BURRITT, an NRC Inspector, indicating that he had been retaliated against as a result of his having raised the LPCI safety concern.

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In the June 1996 time frame, CIZEK had a discussion with CHATFIELD regarding the enclosure (Exhibit 14, p. 3) to the May 14, 1996, NRC letter. In his brief discussion with CHATFIELD, CIZEK stated he neither acknowledged nor denied that he was the source of the two allegations to the NRC. CIZEK was also not aware that the matter had been referred back to CHATFIELD for resolution. He understood that CHATFIELD asked Mike BROWN to have the Nuclear Safety Engineering Branch perform an independent root cause analysis. Jerry REARDON was assigned this task; REARDON's supervisor was Mark VENABLE, Nuclear Safety Engineering. REARDON noted the ACR and then discussed the LPCI matter with CIZEK (Exhibit 2, pp. 104-112).

REARDON completed an independent root cause analysis (Exhibit 24). NRC Generic Letter #89-13 identified similar problems with heat exchangers. REARDON noted to CIZEK that the NRC had been there on inspections but had not identified it as an issue, although it had been around for a while, yet not addressed (Exhibit 2, pp. 115-117).

CIZEK indicated that REARDON told him that Dick (Richard) HART, Service Water Program Coordinator, would provide information on the LPCI issue, but he did not want to get involved. REARDON told CIZEK that his perception was that HART was afraid to cooperate, afraid of what the consequences would be if the root cause found that they were not doing what they were supposed to do (Exhibit 2, pp. 117 and 118).

AGENT'S NOTE: HART denied that he was afraid to cooperate, but indicated that he did not want to get directly involved because he wanted to "retain the relationship" he had with the system engineers, on a "cooperative basis" (Exhibit 31, p. 15).

In a July 29, 1996, letter (Exhibit 13) from Steve SCACE, Vice-president, Nuclear, NU, to Dave VITO, Senior Allegation Coordinator, NRC, SCACE transmitted the results of NU's review of the two concerns referred to them by the NRC.

In addition to the independent analysis prepared by REARDON, there was a second Root Cause analysis, as recommended by REARDON. The LPCI Root Cause analysis report (Exhibit 3) was signed on December 9, 1996, by Paul KRISTIAN, Lead Evaluator, and Dan DOUGHERTY, Evaluator. CIZEK indicated that he discussed his concerns about LPCI with KRISTIAN. CIZEK recalled receiving a call from KRISTIAN on the Root Cause Analysis investigation. CIZEK related his conversations with DOUGHERTY and LAW. CIZEK indicated that he was

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offended when he was questioned by KRISTIAN asking if he knew enough about the subject to indicate that it was a problem. CIZEK indicated that fouling could affect heat transfer and that he had the impression that no one was looking at this. As a result of the questions KRISTIAN raised and the statements he made, CIZEK stated that he felt intimidated (Exhibit 2, pp. 157-164).

In his memorandum to BURRITT (Exhibit 12), CIZEK stated that MORGAN indicated that BROWN referred to the LPCI issue as the "Cizek Affair" (Exhibit 2, pp. 148 and 149). In about June 1996, REARDON and Richard JOHNSON were tasked with performing an independent root cause investigation of the LPCI issue. They met with Nirmal JAIN, at that time, an Engineer in the Safety Analysis Branch. In particular, CIZEK stated that JOHNSON, in a conversation with JAIN, referred to the LPCI issue as the "Cizek Affair." As a result of a conversation with REARDON, CIZEK understood that REARDON claims he was present when JOHNSON made this statement to JAIN and that he (REARDON) complained to BROWN that JOHNSON had not maintained the confidentiality of their inquiry with regard to CIZEK. However, CIZEK indicated that he believed that REARDON had not spoken to JOHNSON prior to the JAIN interview and proffered that JOHNSON must have heard CIZEK's name from another individual. CIZEK believes that JOHNSON negatively captioned this referral as the "CIZEK Affair," and he feels that this was contrary to the NRC's instructions to keep this inquiry confidential (Exhibit 2, pp. 154 and 155).

CIZEK stated that he was isolated when he was not included in the review cycle of the root cause report. He believes that since he was listed as a contributor to the report, he should have been included in the review cycle. However, CIZEK acknowledged that he had not made a request to review it prior to its publication. He felt that it was "standard protocol" to have the people involved in it review it, but did not know if such a review was required by procedure (Exhibit 2, pp. 172-176; see also Exhibit 34).

CIZEK stated that NU used its response to the NRC allegation (Exhibit 13) as a reminder to others that the alleged was a "bad guy" (Exhibit 2, pp. 176-178). This was accomplished through NU's distribution of the original NRC letter. CIZEK felt that this distribution was designed to clearly identify him as someone who has talked to the NRC and suggest that people should be careful about what they said to him. CIZEK felt that he was being characterized as someone who makes NU "look bad." CIZEK and HADLEY both noted that the original NRC letter requested that the response be confidential, but it was not (Exhibit 2, pp. 180-186).

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With regard to his being "blacklisted," CIZEK stated that he was being characterized as not a team player. As a result, he stated he was not provided with a lot of work; people were concerned that he might "find something which is not good to find." When he was not given an opportunity to review a root cause evaluation, this was further harassment by NU. He found that people he knew well in the past would not return his phone calls, such as DOUGHERTY and Ellen REICHOLTZ, who he called looking for a document regarding check valves (Exhibit 2, pp. 190-193).

He noted that management, in general, now knows him and says "Hi!" He feels it is an oddity for people to say, "Hello. How are you?" People like BROWN, John FERGUSON, and others say hello to him, and he does not know who they are. He feels that this is harassment by the company against him (Exhibit 2, pp. 193-195).

Coordination with Regional Staff

A copy of the alleged interview was provided to the regional staff for their review and to ensure that there were not any outstanding safety issues. Because this investigation is being referred to the Office of the United States Attorney for the District of Connecticut, the investigative findings have not been shared with the general staff.

Review of Documentation

A copy of the NU Root Cause Investigation Heat Exchanger Tube Side Scale Formation Report, dated December 9, 1996, was reviewed and is attached (Exhibit 3). A copy of the Independent Root Cause Evaluation was also reviewed and is attached (Exhibit 24).

Allegation: Discrimination Against a Senior Engineer for Raising Safety Concerns About LPCI Heat Exchanger Tube Scale

Evidence Analysis

Event Summary

As CIZEK stated, he raised a concern about the ability of the LPCI heat exchangers to function properly due to the scaling which remained in the tubes after hydroblasting was completed. Several individuals indicated that they were aware of the concern and indicated that it would be

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addressed (Exhibit 4, pp 7, and 14-16; Exhibit 8, pp. 5-10; Exhibit 6, pp. 5-7 and 12-18; and Exhibit 20, pp. 5-8).

CIZEK also filed ACR #9801 (Exhibit 15). This action documented CIZEK's concern with the LPCI system and several individuals acknowledged that it would be addressed, but they were unable to provide an answer to CIZEK's question regarding the effect of scaling. NU Engineers, such as DOUGHERTY (Exhibit 4, p. 15); KRISTIAN (Exhibit 5, pp. 17, 19, 20, and 23); PALMIERI (Exhibit 28, pp. 7-12); QUINN (Exhibit 7, pp. 18-20); and REARDON (Exhibit 9, pp. 36), discussed this matter with CIZEK.

CIZEK also raised the LPCI issue with JENISON, an NRC inspector. This caused the LPCI issue to be placed in the NRC allegation tracking system and sent to NU for resolution. The transmittal letter (Exhibit 14) did not identify CIZEK, but did indicate that there was an ACR on the LPCI issue. The letter further asked NU to provide special handling of this sensitive issue. As CIZEK alleged and witnesses affirm, this was not done. Witnesses, such as CHATFIELD, TEMPLE, VENABLE, and REARDON, indicated that the NRC letter received circulation among the units (Exhibit 25, pp. 5, 6, 19-26, 37-39, and 54-57; Exhibit 18, pp. 10-16, 19-22, 33, 34, 54, and 55; Exhibit 19, pp. 4-12; and Exhibit 9, p. 34).

As a result of CIZEK's concern, NU performed an independent root cause analysis (Exhibit 24) and a root cause evaluation (Exhibits 3 and 34). Each root cause evaluation was driven by a different request, but the LPCI issue was known as a result of CIZEK's questions and ACR # 9801 (Exhibit 15). REARDON stated, that during the independent root cause he conducted, JOHNSON referred to the LPCI issue as the "CIZEK affair" (Exhibit 9, pp. 79-85). However, JOHNSON denied making the statement and none of the witnesses interviewed were able to confirm REARDON's claim that JOHNSON made the statement (Exhibit 33, pp. 51, 65, and 66).

Protected Activity

As alleged, CIZEK was involved in protected activities on several occasions. In particular, his conversations with the NRC inspector (JENISON), his questioning of NU engineers on the impact of scaling on the LPCI heat exchangers, his memorandum to JENISON, his comments to root cause investigators, and the filing of an ACR with NU all constitute protected activities (Exhibit 2, pp. 28-36, 55-67, 110-115, and 157-163; Exhibit 7, pp. 18-23, 28-31; Exhibit 9, p. 36; Exhibit 11;

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Exhibits 12-16; and Exhibit 24; see also Exhibits 4-6, 9, 10, 22, 25, and 29).

Knowledge of the Protected Activity

Management was aware of CIZEK's concern about scale in the LPCI heat exchangers. This is evidenced by the following:

- * Numerous engineers and supervisors associated in some manner with the LPCI system were aware of CIZEK's interest in the system, either directly from CIZEK or through the ACR (Exhibits 4-7, 9, 10, 15, 20, 22, 23, 25, 26, 28-31 and 33).
- * CIZEK had discussions with VanVOORHIS and CHATFIELD; both with the NSCP (Exhibit 22, pp. 24-28; Exhibit 25, pp. 5, 6, 9-13, 15, 16, 54-57; and Exhibit 26, pp. 4-6).
- * CIZEK filed ACR #9801, which bore his name as the initiator of the concern. The ACR was signed by a supervisor (QUINN), sent to the shift supervisor (Richard KRAEMER), and processed through the system at NU (Exhibit 15), which included its presentation at a morning meeting (Exhibit 18, p. 55 and Exhibit 20, pp. 6 and 7).
- * Management's acknowledgement that CIZEK raised concerns about the LPCI system (Exhibit 5; Exhibit 7, pp. 18, 23, 25-28; Exhibit 9, p. 34; Exhibit 18, pp. 54 and 55; Exhibit 19, pp. 4-12; Exhibit 22, pp. 19-27; Exhibit 25, pp. 5, 6, 9-13, 19-26; and Exhibit 26, pp. 4-6).
- * The NRC letter, or a portion thereof, was distributed to unit management and some staff (Exhibit 14); the letter requested an investigation by NU of two safety concerns (Exhibit 7, pp. 18, 20-23; Exhibit 9, p. 34; Exhibit 17, p. 19; see also Exhibit 18, pp. 10-16, 19-22, 33, 34, 54, and 55; Exhibit 19, pp. 4-12; Exhibit 21, pp. 6-10; Exhibit 22, pp. 19-27; Exhibit 25, pp. 5, 6, 19-26, 37-39, 48, 49, 54-57; and Exhibit 26, pp. 10-14).

The former Director, NSCP, acknowledged that the distribution of the NRC letter was mishandled (Exhibit 9, pp. 29-34 and Exhibit 25, pp. 54-57). There appeared to be a larger than appropriate distribution of the concerns page (page three of the letter), which identified the two

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concerns that the NRC had requested NU to investigate (Exhibit 7, pp. 15-18; Exhibit 18, pp. 15-31, Exhibit 19, pp. 5-11, 15, and 18-20; and Exhibit 20, pp. 8-10). While the concerns page identified the fact that an ACR had been written on the LPCI issue, it did not mention the ACR's author (CIZEK) by name (Exhibit 14, p. 3; see also Exhibit 15).

Adverse Action/Discrimination

While CIZEK alleged that he was the victim of discrimination, with the exception of REARDON (Exhibit 9, pp. 83-87), none of the other individuals who were interviewed observed that CIZEK was being treated differently than any other employee. CIZEK raised several points which he felt were indicative of his harassment. Those points are:

1. "CIZEK Affair."

As a result of his conversation with REARDON, CIZEK claimed that the LPCI issue, which he raised, was inappropriately referred to as the "CIZEK affair." REARDON is the only person who claims to have heard anyone mention the term "CIZEK affair" (Exhibit 9, pp. 77-80). None of the other witnesses questioned on this point recalled hearing the term "CIZEK affair." JOHNSON, BROWN and SHOLLER denied ever using those words (Exhibit 33, pp. 51, 65, 66; Exhibit 27, pp. 24 and 25; and Exhibit 20, p. 26) and neither SHOLLER nor JAIN could recall having heard those words (Exhibit 20, p. 26 and Exhibit 29, p. 15).

2. CIZEK's ability to recognize scale.

KRISTIAN was assigned a root cause investigation of the scale formation in the tubes by his supervisor, Don CLEARY. CLEARY advised him of NU's commitment to the NRC. KRISTIAN met with Brian THUMM in Nuclear Licensing, who provided him with a copy of NU's commitment letter to the NRC. KRISTIAN stated that he was not tasked with determining what effect the scaling had on the heat exchanger. He recalled that THULL (Exhibit 6) recommended CIZEK prepare an ACR to ensure that NU tested the heat exchanger. KRISTIAN was under the impression that the purpose of the hydro-lazing of the LPCI heat exchanger tubes was to ensure that there was sufficient clearance in the tubes for the "eddy current

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testing" (Exhibit 5, pp. 5, 13, 20, and 35-36; see also Exhibit 6, pp. 3-8).

KRISTIAN denied that, in the course of his discussions with CIZEK, he harassed him when he discussed ACR #9801. KRISTIAN also denied that he questioned CIZEK about his ability to recognize scale, but he did acknowledge that he asked CIZEK what CIZEK saw when he initiated the ACR (Exhibit 5, pp. 23).

DOUGHERTY, the Evaluator on the Root Cause Analysis Team with KRISTIAN, believes that he was chosen for that position because of his expertise and responsibilities involving heat exchangers at Unit 1. DOUGHERTY acknowledged working with CIZEK on several matters and, based upon his observations, does not recall that CIZEK was treated any differently than others at the plant. He recalls discussing scale and impeded heat transfer with CIZEK, but does not recall questioning CIZEK's ability to recognize scale (Exhibit 4, pp. 15-17; see also Exhibit 9, p. 38).

3. CIZEK not included in Root Cause review cycle.

CIZEK attributed his failure to be included as part of the review cycle for the draft root cause evaluation as discrimination. KRISTIAN stated that he did not include CIZEK in the evaluation report, review cycle, or numerous other individuals. KRISTIAN did not single CIZEK out as a person who was not to be included in the review of his draft report. He did not believe there was any requirement to have each individual with whom he had spoken review his work product. He believed that only the lead evaluator and the manager of the department were required to sign for approval (Exhibit 5 pp. 8-10).

AGENT'S NOTE: Nuclear Group Procedure 3.15 at Section 6.11 indicates that the draft report is to be reviewed by the "line individual that requested the evaluation" and all "department managers affected by or responsible for implementing the recommendations contained in the report" (Exhibit 34, p. 15).

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4. CIZEK was "blacklisted."

With the exception of REARDON, none of the witnesses who were interviewed during this investigation were able to provide any information to support CIZEK's claim that he was "blacklisted" as a result of his having raised the LPCI issue. REARDON indicated that he defined "blacklisting" as the identification of someone as not a team player, which results in that person being isolated. REARDON stated that he based this conclusion on his belief that SHOLLER was more interested in who raised the LPCI issue than in discussing the technical merits of the issue (Exhibit 9, pp. 56-59). SHOLLER denied ever having heard or used the term "CIZEK affair" (Exhibit 20, p. 26).

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SUPPLEMENTAL INFORMATION

The preliminary factual findings of this investigation were discussed with Joseph HUTCHINSON, Assistant United States Attorney, Office of the United States Attorney for the District of Connecticut on June 25, 1997. This Report of Investigation will be forwarded to the United States Attorney's Office for review.

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Investigation Status Record, dated January 15, 1997.
2	Transcribed Interview of CIZEK, dated January 29, 1997.
3	NU Root Cause Investigation, Heat Exchanger Tube Side Scale Formation report, dated December 9, 1996.
4	Transcribed Interview of DOUGHERTY, dated January 28, 1997.
5	Transcribed Interview of KRISTIAN, dated January 28, 1997.
6	Transcribed Interview of THULL, dated January 30, 1997.
7	Transcribed Interview of QUINN, dated January 30, 1997.
8	Transcribed Interview of LAW, dated January 30, 1997.
9	Transcribed Interview of REARDON, dated January 30, 1997.
10	Transcribed Interview of WAGNECZ, dated January 30, 1997.
11	Memorandum from CIZEK to JENISON, dated February 8, 1996.
12	Memorandum from CIZEK to BURRITT, dated December 31, 1996.
13	Letter from SCACE to VITO, dated July 29, 1996.
14	Letter from COOPER to FEIGENBAUM, dated May 14, 1996.
15	ACR # 9801, dated March 26, 1996.
16	Letter from VITO to CIZEK, dated August 19, 1996.
17	Transcribed Interview of HARRIS, dated February 12, 1997.

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- 18 Transcribed Interview of TEMPLE, dated June 17, 1997.
- 19 Transcribed Interview of VENABLE, dated February 12, 1997.
- 20 Transcribed Interview of SHOLLER, dated February 12, 1997.
- 21 Transcribed Interview of THUMM, dated February 13, 1997.
- 22 Transcribed Interview of VanVOORHIS, dated February 13, 1997.
- 23 Transcribed Interview of REARDON, dated February 13, 1997.
- 24 Independent Root Cause Evaluation, dated July 11, 1997.
- 25 Transcribed Interview of CHATFIELD, dated May 20, 1997.
- 26 Transcribed Interview of CHATFIELD, dated June 19, 1997.
- 27 Transcribed Interview of BROWN, dated June 17, 1997.
- 28 Transcribed Interview of PALMIERI, dated June 19, 1997.
- 29 Transcribed Interview of JAIN, dated June 19, 1997.
- 30 Transcribed Interview of MORGAN, dated June 17, 1997.
- 31 Transcribed Interview of HART, dated June 18, 1997.
- 32 Transcribed Interview of HARRIS, dated June 19, 1997.
- 33 Transcribed Interview of JOHNSON, dated May 13, 1997.
- 34 Nuclear Group Procedure (NGP 3.15) Root Cause Evaluation Program,
dated September 1, 1995.

35



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Title: MILLSTONE UNIT 3:

DISCRIMINATION AGAINST AN I&C PLANNER AND SCHEDULER FOR RAISING
APPENDIX R, SEISMIC AND WATER CHEMISTRY CONCERNS

Licensee:

Northeast Nuclear Energy Company
P.O. Box 270
Hartford, Connecticut 06141

Docket No.: 50-423

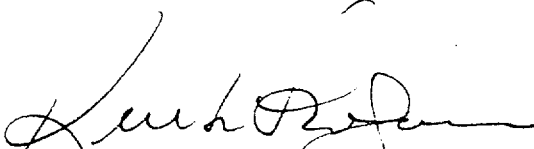
Case No.: 1-97-026

Report Date: October 30, 1997

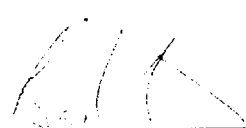
Control Office: OI:RI

Status: CLOSED

Reported by:


Keith G. Logan, Sr. Special Agent
Office of Investigations
Field Office, Region I


Reviewed and Approved by:


Barry R. Letts, Director
Office of Investigations
Field Office, Region I

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CRIMINAL PROSECUTION.



SYNOPSIS

This investigation was initiated by the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI), Region I (RI), on July 9, 1997, to determine if an Instrumentation and Control (I&C) Planner and Scheduler at Millstone Unit 2, Northeast Utilities (NU), had been barred from working in the Millstone Unit 3 Work Planning and Outage Management and the I&C Departments, because of raising differing professional opinions/concerns on a number of issues.

After a preliminary review of this matter and in coordination with the Deputy Regional Administrator, Special Projects Office staff, and Regional Counsel, it has been determined that this case is a normal priority. Due to OI:RI pursuing higher priority investigations, this case is being administratively closed.

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TABLE OF CONTENTS

	<u>Page</u>
SYNOPSIS	1
DETAILS OF INVESTIGATION	5
Applicable Regulations	5
Purpose of Investigation	5
Background	5
Interview of Allegor	5
Coordination with Regional Staff/Special Projects Office	6
Allegation (Discrimination Against an I&C Planner and Scheduler for Raising Appendix R, Seismic, and Water Chemistry Concerns)	6
Evidence	6
Closure Information	7
LIST OF EXHIBITS	9

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DETAILS OF INVESTIGATION

Applicable Regulations

10 CFR 50.5: Deliberate misconduct (1997 Edition)
10 CFR 50.7: Employee protection (1997 Edition)

Purpose of Investigation

This investigation was initiated by the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI), Region I (RI), on July 9, 1997, to determine if Mark FERRANTE, an I&C Planner and Scheduler at Millstone Unit 2, NU, had been barred from working in the Millstone Unit 3 Work Planning and Outage Management (WP&OM) and the I&C Departments, because of raising differing professional opinions/concerns on a number of issues (Exhibit 1).

Background

In March 1997, FERRANTE advised Anthony CERNE, the NRC Senior Resident Inspector (SRI) at Millstone Unit 3, that he was barred from working in Unit 3 WP&OM because of several issues he raised. Specifically, FERRANTE cited (1) a 1992 procedural review issue he raised to the Nuclear Safety Concerns Program (NSCP); (2) a 1992-1993 water chemistry issue he also raised to the NSCP; (3) a 1993 Appendix R issue he raised to line management; and (4) a 1994 seismic mounting issue he also raised to line management (Exhibit 4). These issues were reviewed at an RI Allegation Review Board (ARB). In addition, he indicated that he has [REDACTED] 7C

[REDACTED] On June 4, 1997, FERRANTE provided additional concerns to the SRI which were also the subject of an ARB.

Interview of Allegor (Exhibit 2)

On July 10, 1997, FERRANTE was interviewed by OI. He is working in the Millstone Unit 2 Work Planning Department as an I&C Planner and Scheduler. His current supervisor is Bob POOLE and Skip JORDAN is his manager at Unit 2. FERRANTE has been with NU since June 1988. In October 1996, his position changed from that of a I&C supervisor to a planner. FERRANTE indicated that the change was the result of a Department of Labor audit of a hundred-plus positions at NU, which resulted in numerous positions being converted from salaried to an hourly rate at Millstone, CY (Connecticut Yankee), and Seabrook. FERRANTE did not attribute this change in his position to retaliation, rather through an internal reorganization (Exhibit 2, pp. 6-10).

During his interview, FERRANTE stated that he raised several issues (as indicated above) while working at Unit 3 and, as a result, he was denied the opportunity to return. He indicated that was [REDACTED] 7C

[REDACTED] He confirmed the information he had

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already provided to the NRC and discussed those issues in more detail (See Exhibits 2-6).

Coordination with Regional Staff/Special Projects Office

On April 3, 1997, May 8, 1997, and July 8, 1997, RI addressed FERRANTE's original allegation (1-97-A-0078) via the ARB process. Discussion topics included referring his concerns to Little Harbor & Associates, an oversight group on employee concerns at NU, for their review. Several of his technical issues remained candidates for such referral; however, the staff did not support referring the H&I claim to Little Harbor. On July 8, 1997, OI committed to initiating an investigation and interviewing the alleged; the results were to be reviewed by the staff prior to expanding OI efforts on this matter. On May 8, 1997, the ARB concluded that this was a normal priority for OI purposes, except that it involved Millstone. Copies of the alleged's interview were forwarded to Dave VITO, Senior Allegations Coordinator, Office of the Allegation Coordinator (OAC), RI, and Brad FEWELL, Esq., Regional Counsel, RI, for their review. On August 29th, the FERRANTE's transcribed interview and issues were discussed with members of the Special Projects Office, Regional Counsel, and the OAC. At this meeting it was agreed that the priority of this investigation would remain "normal." At the monthly prioritization meeting on September 29, 1997, the status of this investigation was discussed with the Deputy Regional Administrator, who also agreed with the designation of this matter as a "normal" priority and its proposed closure.

Allegation: Discrimination Against an I&C Planner and Scheduler for Raising Appendix R, Seismic, and Water Chemistry Concerns

Evidence

On August 28, 1997, Janice RONCAIOLI, Manager, EEO/Diversity, Northeast Utilities Service Co. (NUSCO), NU, was interviewed regarding this matter. She indicated that FERRANTE has raised several issues with the Employee Concerns Program (ECP/NSCP) at Millstone regarding [REDACTED] at Unit 3. FERRANTE told her that NU failed to follow its established selection procedures for filling positions at Unit 3. [REDACTED]

[REDACTED] and, in another case, the positions were filled based upon conditions set forth in a December 17, 1997, memorandum (Exhibit 7) from Bruce KENYON, President and Chief Executive Officer, NU, to Nuclear Management, regarding the assignment of displaced Haddam Neck employees to vacant Millstone positions. Her work on FERRANTE's issues is not complete; she has not interviewed any of FERRANTE's supervision. She is still looking at whether there was any discrimination or retaliatory action against FERRANTE in [REDACTED]

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REGION I**

Closure Information

Based on a determination that this investigation is of a normal priority, higher priority cases take precedence and this case is being administratively closed. If, at a future date, information is developed which raises the priority of this case, OI:RI will reevaluate this matter. The closure of this investigation has been discussed/coordinated with the U.S. Attorney's Office, New Haven, Connecticut.

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REGION I~~

LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Investigation Status Record, dated July 9, 1997.
2	Transcribed Interview of FERRANTE, dated July 10, 1997.
3	Interview Report of RONCAIOLI, dated August 28, 1997.
4	Memorandum from FERRANTE to Unit 3 Resident Inspector, dated March 21, 1997.
5	Memorandum from FERRANTE to Human Resources (undated).
6	Memorandum from FERRANTE to MP-GNERL-1-MILLEDS, dated March 14, 1997.
7	Memorandum from KENYON to Nuclear Management, dated December 17, 1997.

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REGION I**

CASE No. 1-97-037

**United States
Nuclear Regulatory Commission**



Report of Investigation

MILLSTONE:

**Discrimination Against an Offsite Program Supervisor for
Raising Safety Concerns Re: EP Support**

Office of Investigations

Reported by OI:

RI

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 7 C
EOIA- 99-98

019

Title: MILLSTONE:

DISCRIMINATION AGAINST AN OFFSITE PROGRAM SUPERVISOR FOR RAISING
SAFETY CONCERNS RE: EP SUPPORT

Licensee:

Northeast Nuclear Energy Company
P.O. Box 270
Hartford, Connecticut 06141

Docket Nos.: 50/245/336/423

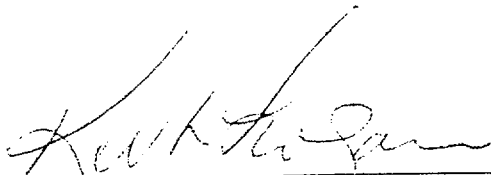
Case No.: 1-97-037

Report Date: January 21, 1998

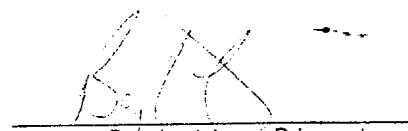
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Status: CLOSED

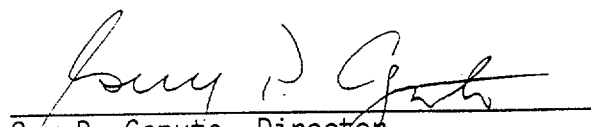
Reported by:


Keith G. Logan, Special Agent
Office of Investigations
Field Office, Region I

Reviewed by:


Barry R. Letts, Director
Office of Investigations
Field Office, Region I

Approved by:


Guy P. Caputo, Director
Office of Investigations

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CRIMINAL PROSECUTION.

TABLE OF CONTENTS

	<u>Page</u>
LIST OF INTERVIEWEES	3
DETAILS OF INVESTIGATION	5
Applicable Regulations	5
Purpose of Investigation	5
Background	5
Interview of Allegor	6
Coordination with Regional Staff	6
Review of Documentation	
Allegation: Discrimination Against an EP Offsite Program Supervisor for Raising Safety Concerns	7
Re: EP Support	7
Evidence Analysis	9
SUPPLEMENTAL INFORMATION	9
LIST OF EXHIBITS	11

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Case No. 1-97-037

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LIST OF INTERVIEWEES

Exhibit

DEVEAU, John, Senior Instructor (former Supervisor, Emergency Planning), Training Department, NU	4
JACKSON, Stephen, Senior Instructor (former Supervisor, Emergency Planning), Training Department, NU	2
STROUP, Peter, Director, Emergency Planning Services, Millstone and Seabrook, NU	5

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Case No. 1-97-1037

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DETAILS OF INVESTIGATION

Applicable Regulations

10 CFR 50.5: Deliberate misconduct (1996 Edition)

10 CFR 50.7: Employee protection (1996 Edition)

Purpose of Investigation

This investigation was initiated by the Office of Investigations (OI), U.S. Nuclear Regulatory Commission (NRC), Region I (REGION I), on September 15, 1997, to determine if Stephen L. JACKSON, a former offsite program supervisor was discriminated against by NU for raising safety concerns regarding Emergency Preparedness (EP) support (Exhibit 1).

Background

JACKSON filed two concerns with the NU Employee Concerns Program (ECP) at Millstone in September/October 1996. He claimed that the conduct of the EP Director, Peter STROUP, was compromising the functioning of the department and he was retaliated against for raising a safety concern (Exhibits 6 and 9). JACKSON indicated that he was pressured by his supervisor STROUP to abandon EP support (i.e., two fixed sirens) at Plum Island and Fishers Island in New York, even though both islands are within the Emergency Planning Zone (EPZ) and the support is required by NUREG 0654.

JACKSON contacted the NRC and claimed that as a result of having raised this concern with the ECP, he has been retaliated against by NU. In particular, he claims to have been: (1) demoted from the supervisor of offsite programs to a team leader; (2) stripped of responsibility; and (3) driven out of the department to take a lower paying non-supervisory job (Exhibit 10).

JACKSON applied for a position outside the EP department. JACKSON accepted a position as a Senior Instructor with the Training Department, Millstone, NU.

Interview of Allegor (Exhibit 2)

On October 14, 1997, OI interviewed JACKSON. JACKSON stated that he raised

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safety issues regarding Plum Island and Fishers Island. One of his concerns related to the maintenance of the fixed public sirens on the islands. JACKSON stated that as a result of raising concerns, he was downgraded from supervisor to team leader in November 1996; this action did not result in a loss in pay. After this change, he was still responsible for a portion of his prior off-site program responsibilities. JACKSON stated that management and coworkers were aware of his concern because he has also raised this issue at department meetings; he stated that, "everyone was pretty much aware of my opinion that we (NU) were doing the wrong thing as far as off-site" (Exhibit 2, pp. 4, 9, 14, 19, 20, and 27).

JACKSON stated that he went to the NU ECP in September 1996 and raised a safety concern with that organization. He also confirmed that he raised a second concern which alleged that he was the victim of retaliation (Exhibit 2, pp. 26-33, and 50).

AGENT'S NOTE: JACKSON also filed a complaint with the U.S. Department of Labor (Case No. 98-ERA-6). In a letter to JACKSON, dated October 9, 1997, John J. STANTON, the Area Director, advised JACKSON that "the investigation did not verify that discrimination was a factor in the actions comprising his complaint" and his complaint was being dismissed (Exhibit 2, p. 50 and Exhibit 3).

Coordination with Regional Staff

On October 23, 1997, a copy of JACKSON's transcribed interview was sent to Dave VITO, Senior Allegation Coordinator, for appropriate staff review.

Review of Documentation

OI reviewed several NU-ECP files. The first was file #WE262MP, which reflected the investigation of a concern raised by JACKSON with the ECP that he was the victim of retaliation because he raised a concern (Exhibit 6). This file contained two investigative reports, one generated by the Employee Concerns Program (ECP) Investigator Jack GALLAGHER, and another by Employee Concerns Investigator Eric GUTHRIE, from Human Resources (Exhibits 7 and 8). The second file was #GE162MP, which addressed a concern JACKSON raised regarding the conduct of the Emergency Planning Director (Exhibit 9).

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Allegation: Discrimination Against an EP Offsite Program Supervisor for
Raising Safety Concerns Re: EP Support

Evidence Analysis

1. JACKSON's Protected Activity

In his interview, JACKSON stated that he raised safety issues regarding Plum Island and Fishers Island, and that these issues were raised both within his department and to the NU-ECP (Exhibit 2, pp. 4 and 26-30; Exhibits 6 and 9).

2. Management's Knowledge of the Protected Activity

Management was aware of JACKSON's protected activity. STROUP acknowledged that JACKSON raised concerns regarding EP service issues and problems, but he never considered that JACKSON was raising nuclear safety concerns. He characterized these issues as discussions among the EP program staff and differing professional opinions. He was not under the impression that he and JACKSON were at odds until he was approached by NU corporate counsel regarding a DOL complaint. He does not think that the issues he discussed with JACKSON ever rose to the level of the raising of a safety concern. (Exhibit 5).

DEVEAU indicated that he was not aware that JACKSON had raised safety concerns until he was interviewed by a DOL investigator in about September 1997. However, he was aware that JACKSON had concerns about the level of service which would be provided to Plum Island and Fishers Island if their group was downsized (Exhibit 4).

3. Adverse Action Taken Against JACKSON

There was a reorganization of the EP group. JACKSON was removed from his supervisory position and redesignated as a team leader. (b)(6) the (b)(6) was also removed as a supervisor and designated as a team leader. Neither JACKSON nor (b)(6) was selected for the new manager position which STROUP created. STROUP indicated that neither JACKSON nor (b)(6) had the background and experience which he felt the new manager should have (Exhibit 5). The reorganization did not result in an immediate pay loss for JACKSON (Exhibit 2, p. 9).

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4. Nexus between the Protected Activity and the Adverse Action

STROUP indicated that he made the changes in the department because he thought the organization was not productive. He decided to restructure his staff to consist of a director, manager, and four leads; this resulted in the elimination of two supervisors (JACKSON and [REDACTED]). STROUP denied treating JACKSON differently than others. STROUP stated that he held JACKSON and [REDACTED]

[REDACTED]

DEVEAU indicated that he did not believe that JACKSON's removal from a supervisory position was in retaliation for raising safety concerns. DEVEAU indicated that STROUP was streamlining the department and this meant a change similar to Seabrook. Both [REDACTED] and JACKSON were reassigned to team leader positions (Exhibit 4).

An investigation (which actually consisted of two investigative reports) by NU's ECP did not support JACKSON's claim of discrimination by STROUP against him for raising safety concerns (Exhibits 7 and 8).

An investigation conducted by the DOL did not sustain JACKSON's allegation of discrimination and dismissed his case (Exhibit 3).

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SUPPLEMENTAL INFORMATION

This Report of Investigation will be forwarded to the U.S. Attorney's Office, New Haven, Connecticut, for their review.

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Case No. 1-97-037

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Investigation Status Record, dated September 15, 1997.
2	Transcribed Interview of JACKSON, dated October 14, 1997.
3	Letter from STANTON to JACKSON, dated October 9, 1997.
4	Interview Report of DEVEAU, dated October 28, 1997.
5	Interview Report of STROUP, dated October 29, 1997.
6	File Review (WE262MP), dated October 22, 1997.
7	NU-ECP Concern Investigation Report (WE262MP) by GALLAGHER, dated September 11, 1997.
8	NU-ECP Concern Investigation Report (WE262MP) by GUTHRIE, undated.
9	File Review (GE162MP), dated October 22, 1997.
10	Allegation Receipt Report, dated September 4, 1997.

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