

**RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) / PRIVACY
ACT (PA) REQUEST**

2000-0014

9

RESPONSE
TYPE

FINAL



PARTIAL

REQUESTER

Maria Webb

DATE

AUG 24 2000

PART I. -- INFORMATION RELEASED

- ☐ No additional agency records subject to the request have been located.
- ☐ Requested records are available through another public distribution program. See Comments section.
- ☐ **APPENDICES**
Agency records subject to the request that are identified in the listed appendices are already available for public inspection and copying at the NRC Public Document Room.
- ☒ **APPENDICES**
O, P
Agency records subject to the request that are identified in the listed appendices are being made available for public inspection and copying at the NRC Public Document Room.
- ☐ Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, NW, Washington, DC.
- ☒ **APPENDICES**
O, P, T
Agency records subject to the request are enclosed.
- ☐ Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- ☐ We are continuing to process your request.
- ☒ See Comments.

PART I.A -- FEES

AMOUNT *

\$ 1003.12

* See comments
for details

You will be billed by NRC for the amount listed.



None. Minimum fee threshold not met.



You will receive a refund for the amount listed.



Fees waived.

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- ☐ No agency records subject to the request have been located.
- ☒ Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.
- ☒ This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

The document identified on Appendix T is not being placed in the NRC Public Document Room. The record contains unit pricing information which is not made publicly available. However, since you represent Morrison-Knudsen, we are releasing the record to you.

The fees for processing your request are as follows:

Search - 16.5 hours, professional:	\$ 609.35
Review - 58.5 hours professional & SES:	2176.66
Duplication - 2386 pgs @ \$.20 per page:	477.20
TOTAL:	\$3263.21

Since you paid advance fees in the amount of \$4266.33, you will receive a refund in the amount of \$1003.12.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Carol Ann Reed

(6-1998)

**RESPONSE TO FREEDOM OF INFORMATION
ACT (FOIA) / PRIVACY ACT (PA) REQUEST**

2000-0014

AUG 24 2000

**APPENDICES
O, P, Q, R, S****PART II.A - APPLICABLE EXEMPTIONS**

Records subject to the request that are described in the enclosed Appendices are being withheld in their entirety or in part under the Exemption No.(s) of the PA and/or the FOIA as indicated below (5 U.S.C. 552a and/or 5 U.S.C. 552(b)).

- ☐ Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.
- ☐ Exemption 2: The withheld information relates solely to the internal personnel rules and procedures of NRC.
- ☐ Exemption 3: The withheld information is specifically exempted from public disclosure by statute indicated.
- ☐ Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
- ☐ Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
- ☐ 41 U.S.C., Section 253(b), subsection (m)(1), prohibits the disclosure of contractor proposals in the possession and control of an executive agency to any person under section 552 of Title 5, U.S.C. (the FOIA), except when incorporated into the contract between the agency and the submitter of the proposal.
- ☐ Exemption 4: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.
- ☐ The information is considered to be confidential business (proprietary) information.
- ☐ The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.790(d)(1).
- ☐ The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.790(d)(2).
- ☒ Exemption 5: The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Applicable privileges:
- ☒ Deliberative process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
- ☐ Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation)
- ☒ Attorney-client privilege. (Confidential communications between an attorney and his/her client)
- ☐ Exemption 6: The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- ☒ Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
- ☐ (A) Disclosure could reasonably be expected to interfere with an enforcement proceeding (e.g., it would reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators).
- ☒ (C) Disclosure would constitute an unwarranted invasion of personal privacy.
- ☐ (D) The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
- ☐ (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
- ☐ (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
- ☐ OTHER (Specify)

PART II.B - DENYING OFFICIALS

Pursuant to 10 CFR 9.25(g), 9.25(h), and/or 9.65(b) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The person responsible for the denial are those officials identified below as denying officials and the FOIA/PA Officer for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECY	IG
Guy Caputo	Director, Office of Investigations	Appendix O & Q	☒		
James E. Dyer	Regional Administrator, RIII	Appendix P & S	☒		
Lawrence J. Chandler	Associate General Counsel for Hearings, Enforcement and Administration	Appendix R		☒	

Appeal must be made in writing within 30 days of receipt of this response. Appeals should be mailed to the FOIA/Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, for action by the appropriate appellate official(s). You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

**APPENDIX O
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	11/18/97	Conversation Record. (1 page) EX 7C
2.	Various	Investigation Status Record. (4 pages) EX. 5 (Attorney-Client Privilege) & 7C
3.	04/18/97	E-mail from J. Ulie to J. Fitzgerald, subject: Alleged Employment Discrimination Against a Former Corporate Welding Engineer. (1 page) EX. 5 (Attorney-Client Privilege) & 7C

APPENDIX P
RECORDS BEING WITHHELD IN PART

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	03/20/97	Memo from J. Hopkins to R. Paul, subject: New Phone Number for Concerned Individual - Discrimination by Employer MK. (1 page) EX. 7C
2.	08/14/97	Letter from J. Hopkins to individual, regarding review of concerns. (4 pages) EX. 7C
3.	09/22/97	Letter from individual to NRC, regarding MK Inappropriate Closure of 10 CFR 21 Reportability for the DC Cook Concerns. (3 pages) EX. 7C

**APPENDIX Q
RECORDS BEING WITHHELD IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	01/15/97	Conversation record. (14 pages) EX. 7C
2.	05/19/97	Letter from OI investigator to individual. (2 pages) EX. 7C
3.	5/23/97	Notes. (1 page) EX. 7C
4.	06/10/97	Letter from OI investigator to individual. (1 page) EX. 7C
5.	04/24/97	Memo from C. Mullins to J. Ulie regarding request for legal advice. EX. 5 (Attorney-Client) & 7C

APPENDIX R
RECORD BEING WITHHELD IN ITS ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	02/19/99	E-mail from Susan Chidakel to Bruce Berson and Mike Stein regarding MK's Assertions of Inconsistencies.. (1page) EX 5 - ATTORNEY WORK PRODUCT

APPENDIX S
RECORD BEING WITHHELD IN ITS ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	07/24/97	E-MAIL from Bruce Berson, RIII, to Joe Ulie, OI/RIII, regarding Morrison Knudsen - Oi Case No. 3-97-013. (1 page) EX. 5 (Attorney-Client Privilege)

APPENDIX T
RECORD BEING RELEASED TO REQUESTER ONLY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	7/17/96	Fax cover sheet from A. Artayet to P. Evans and R. Gorden attacheing ASME Purchase Order. (8 pages)

CONVERSATION RECORD

11/18/97 AMS RIII-97-A-0035 (Morrison-Knudson)

OI Case No. 3-97-013

DOL Case No. 97-ERA-34

On 11/12/97, the Concerned Individual (CI) called and [REDACTED]

The CI called again and offered [REDACTED] The CI also said that s/he had made the same offer [REDACTED]

No new concerns were identified by the CI..

Jay Hopkins, RIII-OAC

cc: R. Paul, OI
J. Ulie
B. Berson

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions b7
FOIA- 2000-0014

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(5)

INVESTIGATION STATUS RECORD

Case No.: 3-97-013 Facility: MORRISON KNUDSEN CORP.
Cleveland, OH

Allegation No.: RIII-97-A-0035 Case Agent: ULIE

Docket No.: N/A Date Opened: 03/13/97

Source of Allegation: ALLEGER (A)

Notified by: OAC:RIII (HOPKINS) Priority: HIGH

Category: IH Case Code: RP

Subject/Allegation: ALLEGED DISCRIMINATION AGAINST A CONTRACT WELD
ENGINEER FOR RAISING WELDING CONCERNS

Remarks: 10 CFR 50.7

Monthly Status Report:

03/13/97: On February 18, 1997, Alain ARTAYET, a Corporate Welding Engineer for MORRISON KNUDSEN (MK), filed an employment discrimination complaint with the DOL. ARTAYET said he was responsible for providing oversight to welding performed in nuclear power plants where MK performed construction services. On January 1, 1997, HARTFORD STEAM BOILER INSPECTION AND INSURANCE COMPANY (HARTFORD) transmitted to MK a quality assurance (QA) audit which identified that certain welding procedures used by MK at Point Beach NPS were not in compliance with applicable welding codes and standards. ARTAYET's review of HARTFORD's QA audit concluded that 14 of 18 welding procedures used by MK at Point Beach failed to meet relevant QA standards. On January 14, 1997, ARTAYET was informed that the MK Vice President of the Power Division was "unhappy" with the contents of his report and that ARTAYET was "expendable" as MK's Corporate Welding Engineer. On January 15, 1997, ARTAYET was asked to review MK's Field Welding Procedure Manual for DC Cook NPS. ARTAYET identified deficiencies in this manual and completed an internal MK document for 10 CFR Part 21 notification. Later, on January 15, 1997, ARTAYET was summoned to a meeting where he was informed that the CEO of MK had made a decision he was being fired from his position as Corporate Welding Engineer. On February 7, 1997, ARTAYET was told he was being demoted and re-assigned to a position in Parkersburg, WV, in a position not related to nuclear work. On February 11, 1997, ARTAYET was directed to report to Parkersburg, WV. On March 13, 1997, an ARB was held on this issue and OI was asked to initiate an investigation to determine if ARTAYET was discriminated against. STATUS: FWP ECD (90 DAY): 06/97

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 5, 7C
FOIA-2000-0014

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INVESTIGATION STATUS RECORD

Case No.: 3-97-013 Facility: MORRISON KNUDSEN CORP.
Cleveland, OH

Allegation No.: RIII-97-A-0035 Case Agent: ULIE

Docket No.: N/A Date Opened: 03/13/97

Source of Allegation: ALLEGER (A)

Notified by: OAC:RIII (HOPKINS) Priority: HIGH

Category: IH Case Code: RP

Subject/Allegation: ALLEGED DISCRIMINATION AGAINST A CONTRACT WELD
ENGINEER FOR RAISING WELDING CONCERNS

Remarks: 10 CFR 50.7

Monthly Status Report:
page 2

- 03/31/97: The case agent tentatively scheduled a date during April to meet with the concerned individual and his attorney. However, the concerned individual was to coordinate with his attorney and advise the case agent of a firm meeting date. The case agent is awaiting this confirmation. STATUS: FWP ECD (90 DAY): 06/97
- 04/30/97: OI:RIII and an NRC technical staff member conducted a transcribed interview with the concerned individual in the presence of his attorneys. The concerned individual advised on the record that [REDACTED] his supervisor and another company manager [REDACTED] relevant to his employment discrimination complaint. OI:RIII requested assistance from OGC concerning the [REDACTED] No response has been received yet. STATUS: FWP ECD (90 DAY): 06/97 7c
- 05/31/97: [REDACTED] OI is awaiting the NRC technical staff review of the alleged's interview and related documentation. STATUS: FWP ECD (90 DAY): 06/97 5/7c
- 06/30/97: OI sent the tape recordings in for transcription. The alleged contacted OI requesting a status of his case and indicating a D.O.L. hearing was scheduled for June 1997. The case agent and a RIII Office Allegation Coordinator re-contacted the alleged and provided him a status of his complaint including the technical and employment discrimination issues. The initial ECD is being assigned this period. STATUS: FWP ECD: 12/97

INVESTIGATION STATUS RECORD

Case No.: 3-97-013 Facility: MORRISON KNUDSEN CORP.
Cleveland, OH

Allegation No.: RIII-97-A-0035 Case Agent: ULIE

Docket No.: N/A Date Opened: 03/13/97

Source of Allegation: ALLEGER (A)

Notified by: OAC:RIII (HOPKINS) Priority: HIGH

Category: IH Case Code: RP

Subject/Allegation: ALLEGED DISCRIMINATION AGAINST A CONTRACT WELD
ENGINEER FOR RAISING WELDING CONCERNS

Remarks: 10 CFR 50.7

Monthly Status Report:
page 3

07/31/97: OI:RIII has scheduled an interview with the auditor from Hartford Steam Boiler Inspection and Insurance Company through the company's legal department, whom the alleger claimed initiated the issues that lead to his discrimination complaint.

[REDACTED] OI:RIII No 7C
further information has been received by OI:RIII regarding the outcome of the DOL hearing. STATUS: FWP ECD: 12/97

08/31/97: On August 11, 1997, additional information was provided to OE:RIII, making it necessary to conduct a follow-up ARB. An ARB has been tentatively scheduled for Tuesday, September 2, 1997. OI:RIII is planning on attending this ARB. STATUS: FWP ECD: 12/97

09/30/97: A former Morrison Knudsen welding technician employee was interviewed. He corroborated information relevant to the discrimination complaint initially provided by the alleger. As a result, a search for the next interviewee is in-progress. STATUS: FWP ECD: 12/97

10/31/97: An interview with a former Morrison Knudsen welding technician employee who allegedly may have information relevant to the discrimination complaint has been scheduled. STATUS: FWP ECD: 12/97

INVESTIGATION STATUS RECORD

Case No.: 3-97-013 Facility: MORRISON KNUDSEN CORP.
Cleveland, OH

Allegation No.: RIII-97-A-0035 Case Agent: ULIE

Docket No.: N/A Date Opened: 03/13/97

Source of Allegation: ALLEGER (A)

Notified by: OAC:RIII (HOPKINS) Priority: HIGH

Category: IH Case Code: RP

Subject/Allegation: ALLEGED DISCRIMINATION AGAINST A CONTRACT WELD
ENGINEER FOR RAISING WELDING CONCERNS

Remarks: 10 CFR 50.7

Monthly Status Report:
page 4

- 11/30/97: Witness interview's were conducted corroborating previous testimony. In addition, OI:RIII obtained the DOL Hearing transcripts and relevant exhibits. This information is currently being reviewed by OI:RIII. Furthermore, based on higher priority cases including specifically OI Case No. 3-97-018, et. al, the ECD is being changed to April 1998. STATUS: FWP ECD: 04/98
- 12/31/97: Two additional interviews were conducted. A review of the DOL information has been completed. One more interview is anticipated before the field work is considered complete. STATUS: FWP ECD: 04/98

07
Release in Ket - OI

From: Joseph Ulie
To: WND1.WNP2.JAF Jim Fitzgerald, OGC
Date: 4/18/97 2:08pm
Subject: Request For Assistance: OI Case No. 3-97-013

RE: ALLEGED EMPLOYMENT DISCRIMINATION AGAINST A FORMER
CORPORATE WELDING ENGINEER (OI CASE NO. 3-97-013)

On April 11, 1997, during an OI transcribed interview involving an employment discrimination complaint, A Concerned Individual (CI), Former Corporate Welding Engineer, Morrison Knudsen Corporation (MK) (vendor/contractor to NRC licensees), said he [REDACTED] EX7C
[REDACTED] his former supervisor that, in part, have relevance to the CI's complaint. In addition, the CI said he also [REDACTED] with the MK management individual who had informed him of a mandatory job reassignment. This reassignment is what apparently caused the CI to file his complaint. The [REDACTED] are believed to have occurred at the MK Corporate Offices in Cleveland, Ohio.

The CI was interviewed by OI:RIII in the presence of two attorneys representing him, Steven D. Bell and Lynn Rogozinski, with the Ulmer and Berne Law Firm.

The CI offered these [REDACTED] to the NRC for it's use in the investigation, however, OI:RIII has yet to respond to the CI's offer.

For your information, when the CI [REDACTED] he was not acting as an agent of the Agency nor did OI have any involvement prior to or during [REDACTED] EX7C

OI:RIII request your assistance as follows: (1) Provide a legal opinion on whether [REDACTED] EX5/7C

If you or your staff have questions or need further information, please do not hesitate to contact me at (800) 522-3025, extension 9678 or via electronic mail at JXU..

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 5, 7C
FOIA- 2000-0014

0/3 -
5/7C

March 20, 1997

~~THIS DOCUMENT IDENTIFIES~~
~~A CONFIDENTIAL SOURCE~~

MEMORANDUM TO: R. Paul, OI-RIII

FROM: J. Hopkins, OAC-RIII

SUBJECT: NEW PHONE NUMBER FOR CONCERNED INDIVIDUAL -
DISCRIMINATION BY EMPLOYER MORRISON KNUDSEN.
AMS No. RIII-97-A-0035; OI CASE No. 3-97-013

On 3/20/97, Mr. Alain Artayet, the Concerned Individual (CI) left a voice mail message informing me of a new telephone number where the NRC could contact him while he was working in West Va. The CI had moved from his apartment and is staying with a friend, [REDACTED] (not sure of spelling). The phone number is [REDACTED] As of 4 6 97 5:30 pm (CST) on 3/20/97, I have not been able to contact the CI to confirm the phone number.

The CI's home number in Ohio, his work number in West Va, and his attorney's number are still the same.

~~THIS DOCUMENT IDENTIFIES~~
~~A CONFIDENTIAL SOURCE~~

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in accordance with the Freedom of Information
Act, exemptions 7C
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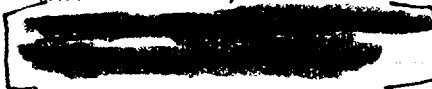


UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
801 WARRENVILLE ROAD
LISLE, ILLINOIS 60532-4351

August 14, 1997

Mr. Alan Artayet

AMS NO. RIII-97-A-0035



EX7C

W 6 & 7C

Dear Mr. Artayet:

This letter is to update you on the status of the U. S. Nuclear Regulatory Commission's (NRC) review of the concerns you provided to us regarding the Morrison Knudsen Corporation (MK). In an initial telephone conversation on February 20, 1997, and during subsequent conversations and one interview, you identified problems with MK's welding procedures for the steam generator replacement projects at the Point Beach and D. C. Cook nuclear power plants. You also stated that your employment was terminated because of your identification of these issues. We appreciate the information that you have provided to us and apologize for the delay in responding to you. I would like to assure you that while this letter is late, the review of your concerns was promptly initiated.

Our current understanding of your concerns is summarized below. If you have any additional or clarifying information related to these concerns, please contact one of the Region III Office Allegation Coordinators at the address provided below.

- 1) Employment Discrimination - Your employment at the Morrison Knudsen Corporation was terminated for reporting deficiencies in welding procedures to your supervisors.
- 2) Fourteen of eighteen welding procedures used by MK during the 1996 steam generator replacement project at Point Beach Unit 2, failed to meet relevant quality assurance standards. This information was described in a Morrison Knudsen Corporation Quality Finding Report dated January 15, 1997 (Report Number C-96-022), which calls into question the ability of the welding procedures (and associated welds fabricated with these procedures) to meet ASME Code criteria.
- 3) Some welds performed during the 1988 steam generator replacement project at D. C. Cook, specifically on feedwater nozzles and main steam lines (and possibly others), were not demonstrated per ASME Code requirements as being adequate to meet service conditions. The reason for this is that the welding procedures did not meet ASME Code quality assurance criteria. Specifically, welding procedures WPS-No. M-1-1-BA (Revision 0, dated September 16, 1988) and WPS-No. M-1-1-AB (Revision 1, dated June 9, 1988) specified the use of an E7018 electrode of SFA-5.1 filler metal specification. However, PQR 1-117 and PQR 1-124 indicate that these welding procedures were qualified for use with E7018-A1 electrodes of the SFA-5.5 filler metal specification. Additionally, welds were performed on thicknesses (greater than 5/8 inch) for which ASME Code required charpy impact tests, and none were completed.

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 2
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- 4) A group of MK project managers, who previously worked at the Fort Saint Vrain decommissioning project in 1995 and 1996, move from project to project (Ft. St. Vrain, D. C. Cook, Point. Beach, and now St. Lucie), don't respect the rules, and could be making more errors.

The NRC's investigation of employment discrimination is in progress. With regard to concerns 2 and 3, we have recently informed the management at the Point Beach and D. C. Cook plants of the issues and requested the licensees perform an evaluation and provide a copy of the evaluation to the NRC. The NRC will review the licensees' responses and determine if further inspection activity is warranted.

Since Morrison Knudsen does work at plants across the country, concern 4 has potential generic implications and is being referred to the Office of Nuclear Reactor Regulation (NRR) for resolution. Your point of contact for concern 4 is:

Jean Lee, Senior Allegation Coordinator
U.S. Nuclear Regulatory Commission - NRR
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738
Switchboard Telephone Number: 800/368-5642

An evaluation of your concerns will normally be conducted within 6 months and you will be informed of the results. In resolving the concerns, the NRC intends to take all reasonable efforts not to disclose your identity. However, the NRC may reveal your identity under the following circumstances: (1) you clearly indicate that you have no objection to being identified; (2) disclosure is necessary to protect the public because of an overriding safety issue identified in your concerns; (3) disclosure is necessary to satisfy a request from Congress or from State or Federal agencies; (4) disclosure is required to respond to a court order or NRC Licensing Board order; (5) you have taken actions that are inconsistent with protecting your identity; or (6) the NRC needs to pursue a wrongdoing investigation or support a hearing on an NRC enforcement action. If the NRC is evaluating a claim of employment discrimination for raising safety concerns, an evaluation without identifying you would be extremely difficult. Therefore, when the NRC is evaluating a claim of discrimination, your name will be disclosed. Furthermore, the NRC's evaluation of employment discrimination may take 12 to 18 months. Finally, you are not considered a confidential source unless an explicit request of confidentiality has been formally granted in writing.

The information regarding protecting your identity was discussed with you during our initial telephone conversation on February 20, 1997. You indicated that you did not object to having your identity released. In addition, in a telephone conversation on March 13, 1997, you stated that you did not object to having the technical issues forwarded to the respective licensees for evaluation.

We are aware that you have filed an employment discrimination complaint with the U. S. Department of Labor (DOL). The NRC and DOL have differing responsibilities when evaluating employment discrimination. While the DOL can order personal remedies such as reinstatement of your job, back pay, and reverse disciplinary action, the NRC does not have that authority. The NRC conducts an independent investigation, in parallel with the DOL investigation, to determine if discrimination occurred. Additionally, the NRC will review the final decision of the DOL. If the NRC concludes discrimination occurred, the NRC will determine if enforcement action against the licensee is warranted. In the meantime, if the matter is settled or concluded in some manner, we request that you inform us and provide copies of any documents you file or receive regarding the discrimination issue.

I am enclosing a copy of NRC publication, "Reporting Safety Concerns to the NRC." This brochure discusses the process we use to resolve the safety concerns brought to our attention.

If you have any questions regarding this matter, please contact Roger Doornbos or me by writing to the U.S. Nuclear Regulatory Commission Region III at 801 Warrenville Road, Suite 255, Lisle, Illinois 60532-4351, or calling the NRC Region III switchboard toll free at (800) 522-3025 or the NRC Safety Hotline at (800) 695-7403. Your cooperation is appreciated.

Sincerely,



Jay Hopkins
Office Allegation Coordinator

Enclosure: NUREG/BR-0240, "Reporting
Safety Concerns to the NRC"

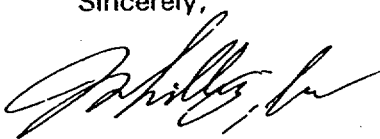
Certified Mail
Return Receipt Requested

We are aware that you have filed an employment discrimination complaint with the U. S. Department of Labor (DOL). The NRC and DOL have differing responsibilities when evaluating employment discrimination. While the DOL can order personal remedies such as reinstatement of your job, back pay, and reverse disciplinary action, the NRC **does not** have that authority. The NRC conducts an independent investigation, in parallel with the DOL investigation, to determine if discrimination occurred. Additionally, the NRC will review the final decision of the DOL. If the NRC concludes discrimination occurred, the NRC will determine if enforcement action against the licensee is warranted. In the meantime, if the matter is settled or concluded in some manner, we request that you inform us and provide copies of any documents you file or receive regarding the discrimination issue.

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If you have any questions regarding this matter, please contact Roger Doornbos or me by writing to the U.S. Nuclear Regulatory Commission Region III at 801 Warrenville Road, Suite 255, Lisle, Illinois 60532-4351, or calling the NRC Region III switchboard toll free at (800) 522-3025 or the NRC Safety Hotline at (800) 695-7403. Your cooperation is appreciated.

Sincerely,



Jay Hopkins
Office Allegation Coordinator

Enclosure: NUREG/BR-0240, "Reporting
Safety Concerns to the NRC"

Certified Mail
Return Receipt Requested

bcc: AMS File No. RIII-97-A-0035

DOCUMENT NAME: G:\EICS\AMS-LTRS\97-A-035.ACK

To receive a copy of this document, indicate in the box "C" = Copy w/o attach/end "E" = Copy w/attach/end "N" = No copy

OFFICE	RIII	E	RIII	E				
NAME	Hopkins/ml		Gavula					
DATE			8/14/97					

OFFICIAL RECORD COPY

~~THIS DOCUMENT IDENTIFIES
AN ALLEGER~~


CERTIFIED MAIL

Monday, September 22, 1997

Jay Hopkins
Office Allegation Coordinator
USNRC - Region III
Suite 255
801 Warrenville Road
Lisle, IL 60532-4351

Subject: MK's Inappropriate Closure of 10 CFR 21 Reportability
For the D.C. Cook Unit #2 Concerns

Dear Mr. Jay Hopkins:

I received your letter AMS No. RIII-97-A-0035 on August 16, which indicated that I contact an allegation coordinator, if I had any additional information related to my concerns. I talked to Mr. Joe Ulie on September 12, and he informed me that he already had sent an e-mail to inform you that this letter was coming your way. The information I am about to present to you was given to me during the DOL hearings as evidence to be used during the hearing process. I did not review the technical aspects (particularly 10 CFR 21 Applicability Report dated 3-18-97) of this evidence until about a month and a half after the completion of the hearing. At that time, I did not pursue any action to inform the NRC because I felt the NRC would identify this information during their own investigation. In addition, I did not want to come across as trying to influence your investigation, or make it appear that I have a personal vendetta against MK's management (as indicated by the 4th paragraph of Mr. Andy Walcutt's memo no. M-QM-97-019 dated March 18, 1997).

I finally completed this letter to make you aware of how MK's management closed the Part 21 applicability review of my concerns from a technical viewpoint. As you are aware, I verbally disclosed welding concerns to MK (via Mr. Andy Walcutt, Director of Quality) for the D.C. Cook Unit #2 nuclear power plant on January 15, 1997. After I investigated the legitimacy of my concerns a little further (see the enclosed D.C. Cook production documents), a formal written notification was presented to Mr. Walcutt on January 22, 1997 with memo no. M-QM-97-004. This memo was presented to Mr. Walcutt with Mr. Drew Edleman as a witness (MK's Director of Performance Systems and administrative supervisor of Mr. Walcutt).

As you can see, a "Determination Checklist for 10 CFR Part 21 Applicability" form was completed by me on January 23, 1997 and presented to Mr. Walcutt on that day at 1:45 p.m. On January 27, 1997, Mr. Lou Pardi, Executive Vice-President of MK's Power Division, wrote a formal memo. to Mr. Walcutt indicating that the MK welding engineer (no name mentioned?) at the St. Lucie Unit #2 nuclear power plant determined that MK currently has procedure qualification records (no PQR-no. given) with E7018 that passed required notch toughness in the as-welded and PWHT conditions. The welding engineer referred to could possibly be Mr. Eugene (Rusty) Gorden or Mr. Don Huffstodt. Mr. Gorden was the project welding engineer (PWE) at both Point Beach Unit #2 and D.C. Cook Unit #2 Steam Generator Replacement Projects (SGRP). As a point to note, Mr. Gorden was promoted by Mr. Max Bingham and Mr. Marty Cepkauskas as the Construction Engineering Manager (CEM) for the St. Lucie Unit #2 SGRP to direct all construction engineering disciplines (including PWE in accordance with the organizational chart of MK's QA manual and program for welding operations). In addition,

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please be aware that Mr. Walcutt testified under oath during the DOL hearing on June 12, 1997 that he informed Marty Cepkauskas and Max Bingham that he would not accept Rusty Gorden to continue in the function of project welding engineer and that they would have to find a replacement for the St. Lucie job (see the DOL transcript page 254 and 255). Therefore, Mr. Pardi could possibly be referring to Mr. Don Huffstodt, the new St. Lucie PWE, who was the MK Corporate Welding Engineer before I was hired in 1988.

I believe that PQR-No. GT-SM/1.1-Q4, is the PQR Mr. Pardi is referring to, and this PQR was qualified in 1996 for the Point Beach Unit #2 SGRP. Be aware that the actual production welding parameters (i.e., maximum heat input and use of E7018 or E7018-A1) at D.C. Cook Unit #2 SGRP were never considered in 1996 for the procedure qualification to be used at the Point Beach Unit #2 SGRP. **Please, note that the actual maximum heat input used during production welding at the D.C. Cook Unit #2 SGRP in 1988 still remains unknown today.** Mr. Pardi is not admitting to an actual ASME Section III code violation in 1988 for welding on a nuclear power plant with E7018 electrodes without the use of proper ASME qualified welding procedures. He further deduces on his own, as MK's Executive VP, that the technically advisable resolution to a possible welding problem in 1988 would be resolved by qualifying a welding procedure in 1996. Prior to making this judgment, I believe Mr. Pardi did not:

1. Determine the actual maximum weld heat input used during production welding of over a dozen butt joints and several weld buildups performed under the scope of ASME Section III (Class 2) for 32" dia. main steam and 14" dia. feedwater piping systems for all 4 steam generators at D.C. Cook Unit #2. For the reference material I used for making this determination, see the attached weld maps and weld data cards documenting the use of WPS-No. M-1-1-AB with E7018 electrodes. Please note that I did not find any QA/QC reports recording actual heat input control inspections performed during the actual production welding of the above welds in 1988. I only had time to inquire into MK's Quality Department corporate vault (of which I was always permitted access). Also note that I believe nobody bothered to look at the D.C. Cook Unit #2 SGRP documents stored at MK's storage warehouse on State Road in Cleveland. MK management fails to recognize that this is a hardware problem that could affect the serviceability of permanent plant items (see memo. M-QM-97-013).
2. Understand that qualifying a welding procedure 8 years later does not constitute that the mechanical integrity of the welds in-service will be maintained for the life of the plant. The above welds could currently be acceptable from a nondestructive examination (NDE) point of view. However, just because a weld is acceptable in accordance with radiographic and ultrasonic inspection requirements, does not mean that the weld is mechanically sound. For instance, the welds could have acceptable weld discontinuities, but could be lacking toughness (influenced by heat input during welding) which is the ability of a weld to resist crack initiation or propagation.
3. Obtain consent and approval of the owner (i.e., American Electric Power) of the D.C. Cook Unit #2 on his determination.

Memo M-QM-97-013, which was written to file by Mr. Walcutt, was used to close the potential Part 21 evaluation. Mr. Walcutt indicates that WPS's No. M-1-1-AB and M-1-1-BA do not reference PQR-No. 1-126, and that PQR 1-126 references WPS-No. M-1-1-AB. He fails to recognize that:

1. PQR-No. 1-126 was not referenced because it was not qualified to support FWP-15.4 (WPS M-1-1-AB) and FWP 15.22 (WPS M-1-1-BA). It was a typographical error that PQR-No. 1-126 references WPS-No. M-1-1-AB because this PQR was:

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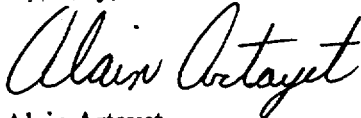
- a) Qualified for an unassigned base metal (A588 welded to A588) where M-1-1-AB was prepared and qualified for welding assigned base metals under the grouping of P1 to P1 materials. A588 is not recognized as a P1 material in accordance with ASME Section IX.
 - b) WPS-No. M-1-1-AB was developed on 6/9/88 using supporting PQR's 1-124 and 1-117 that were completed on 10/1/86 and 4/8/88, respectively (before the WPS-No. M-1-1-AB development date of 6/9/88). PQR-No. 1-126 was qualified several months later on 8/31/88.
 - c) WPS-No. M-1-1-AB requires the use of Postweld Heat Treatment (PWHT) and this is supported using PQR-No. 1-117. PQR-No. 1-126 was qualified without PWHT and cannot support WPS M-1-1-AB.
2. PQR-No. 1-126 cannot be used to justify the use of E7018 with the indicated heat inputs (calculated using $V * I * 60 / \text{IPM}$) because it was qualified in the flat (1G) position only, and WPS M-1-1-AB was prepared for use in all positions and uphill progression.

Mr. Walcutt has also failed to recognize that MK cannot use PQR-No. GT-SM/1.1-Q4 qualified in 1996 because the heat inputs used at the D.C. Cook Unit #2 SGRP in 1988 are unknown. The Part 21 applicability for the D.C. Cook Unit #2 was not properly evaluated by Mr. Walcutt, Mr. Pardi, and the unknown welding engineer Mr. Pardi refers to. This obvious lack of understanding by the above people involved in closing the D.C. Cook concerns, leads me to wonder if the Point Beach Unit #2 concerns were also properly evaluated.

Memo M-QM-96-065 was written by me (after the July meeting between Mr. Walcutt, Mr. Bingham and myself) to partially delegate Mr. Eugene (Rusty) Gordon on August 1, 1996. Please, forward this memo and the two facsimiles about drop weight testing (including ASTM standard E208) to Mr. Ulie per his request.

If you deem necessary, please feel free to forward a copy of this letter and entire contents to Jean Lee, Jerry Schapker, and Joe Ulie.

Sincerely, .



Alain Artayet

Attachments: M-QM-97-004,
QAI 1.1-1 (with only my signature),
Lou Pardi's memo of 1/27/97,
M-QM-97-009,
M-QM-97-013,
QAI 1.1-1 (signed by Walcutt on 3/18/97),
M-QM-97-019,
Weld Maps for Steam Generators #1 through 4,
Weld Data Cards for Package No. 1531A (for Steam Generator #1),
WPS No. M-1-1-AB (FWP-15.4),
WPS No. M-1-1-BA (FWP-15.22), and
WPS No. M-588-B (FWP-15.23).

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