

If you have any questions, please contact Mr. John Carlin, Vice President, Human Services, at (860) 437-5938.

Very truly yours,

NORTHEAST NUCLEAR ENERGY COMPANY



Leon J. Olivier
Senior Vice President and
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Attachment (1)

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Docket Nos. 50-423
50-336
50-245
B17776

Attachment 1

Millstone Nuclear Power Station

Unit Nos. 1, 2, and 3

Reply To Notice Of Violation (EA 98-325)

Office Of Investigation Reports 1-96-002, 1-96-007, 1-97-007

May 1999

I. Response to Violations A and B

Restatement of Violation A

10 CFR 50.7 prohibits, in part, discrimination by a Commission licensee against an employee for engaging in certain protected activities. Discrimination includes discharge, demotion or other actions relating to the compensation, terms, conditions, and privileges of employment. Protected activities are described in Section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act. Protected activities include, but are not limited to, reporting of safety concerns by an employee to his employer.

Contrary to the above the Licensee discriminated against a Supervisor in the Performance Engineering group at the Millstone station due to his involvement in protected activities. Specifically, in November 1993, the Licensee's Vice President for Nuclear Engineering Services removed from supervisory activities and demoted the Supervisor in the Performance Engineering group, at least in part, because the Supervisor had raised concerns about CU-29 check valve operability and had actively supported another Millstone employee who had raised safety concerns about spent fuel off-loading practices at Millstone.

This is a Severity Level II violation (Supplement VII). (01012)

Restatement of Violation B

10 CFR 50.7 prohibits, in part, discrimination by a Commission licensee against an employee for engaging in certain protected activities. Discrimination includes discharge, demotion or other actions relating to the compensation, terms, conditions, and privileges of employment. Protected activities are described in Section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act. Protected activities include, but are not limited to, reporting of safety concerns by an employee to his employer.

Contrary to the above the Licensee discriminated against a Supervisor in the Engineering Mechanics group at the Millstone station due to his involvement in protected activities. Specifically, the Director of the Engineering Department removed the responsibility of the Supervisor in the Engineering Mechanics group for the motor operated valve program in 1991 and the turbine-building secondary closed cooling water (TBSCCW) heat exchanger issues in 1992, and in November 1993, the Licensee's Vice President for Nuclear Engineering Services, supported by the then Director of the Engineering Department,

removed from supervisory activities and demoted the Supervisor in the Engineering Mechanics group, at least in part, because the Supervisor had raised concerns about the safety-related motor-operated valve program, TBSCCW heat exchanger issues and reactor coolant pump maintenance matters. (02012)

This is a Severity Level II violation (Supplement VII).

NNECO Response to Violations A and B

Violations A and B involve decisions made in the course of restructuring the Nuclear Engineering organization in 1993. The Nuclear Engineering organization was reorganized for the intended business result of making the organization more efficient and responsive to the needs of Millstone Station. Following careful consideration by a task force formed to study other successful nuclear companies and to make recommendations for an optimal structure, the centralized nuclear engineering organization of the past was eliminated and, consistent with the industry trend to move the nuclear engineering function to plant sites, the vast majority of engineering resources were moved directly to the operating units at Millstone. A collaborative process that was based on the input of many individuals, including Company management and consultants, was used for this reorganization. The new organizational structure substantially changed the responsibilities of many jobs and completely eliminated other supervisory positions. NNECO concedes that the process used in staffing the new organization in 1993 could have been better, but it was intended to be fundamentally fair and not discriminatory.

NNECO is unaware of any information to indicate that the managers involved in the reorganization, including the former Vice President for Nuclear Engineering Services and two former Directors in the Engineering Department in 1991 and 1993, took action against a supervisor in the Performance Engineering group and a supervisor in the Engineering Mechanics Group because those individuals were involved in protected activities.

Specifically, it is NNECO's understanding that the former Vice President for Nuclear Engineering Services did not remove the supervisor in the Performance Engineering Group (Violation A) from his position in the old organization; rather, the supervisor's position was eliminated. This decision was made by the reorganization task force, not the former Vice President. Similarly, NNECO is not aware of information which would indicate that the former Vice President declined to place this supervisor in a different supervisory position in the new organization. Instead, it is NNECO's understanding that this option for the supervisor was not discussed or considered.

With respect to the supervisor in the Engineering Mechanics Group (Violation B), it is NNECO's understanding that the former Vice President for Engineering Services, as well as the Directors in the Engineering Departments in 1991 and 1993, were aware of some of the protected activity engaged in by this individual. However, NNECO is aware of no information to suggest that protected activity adversely affected their opinion of the supervisor, or of any information that establishes a causal connection between any protected activity engaged in by the supervisor and any decision made by these managers. It is NNECO's understanding that neither the former Vice President for Nuclear Engineering Services nor the Directors in the Engineering Departments in 1991 and 1993 removed the supervisor from his position in the old organization; rather, the supervisor's position was eliminated by the reorganization task force. Similarly, NNECO is not aware of information which would indicate that these managers declined to place the supervisor in a new supervisory position in the new organization. Instead, it is NNECO's understanding that this option for the supervisor was not discussed or considered.

While NNECO does not believe that the managers involved in the 1993 nuclear engineering reorganization retaliated against anyone for having raised a safety concern, NNECO sees little value in revisiting decisions involving a reorganization which took place nearly seven years ago. Accordingly, NNECO is not contesting Violations A and B.

II. Response to Violation C

Restatement of Violation C

10 CFR 50.7 prohibits, in part, discrimination by a Commission licensee against an employee for engaging in certain protected activities. Discrimination includes discharge, demotion or other actions relating to the compensation, terms, conditions, and privileges of employment. Protected activities are described in Section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act. Protected activities include, but are not limited to, reporting of safety concerns by an employee to his employer.

Contrary to the above the Licensee discriminated against a Supervisor in the Engineering Services Department at the Millstone Station due to his involvement in protected activities. Specifically, in August 1995, the Licensee's Director of Nuclear Engineering and the Manager of Nuclear Design Engineering Services recommended and obtained the dismissal of the Supervisor in the Engineering Services Department, at least in part, because the Supervisor had reported to higher management and the Millstone Safety Concerns Program threats and

U.S. Nuclear Regulatory Commission
B17776 Attachment 1 Page 4

concerns about the timing of completion of modifications to the Engineered Safeguards Actuation System. (03012)

This is a Severity Level II violation (Supplement VII).

NNECO Response to Violation C

Violation C involves the August 1995, termination of a supervisor in the Engineering Services Department. As NNECO understands the facts, in November 1994, the Manager of Nuclear Design Engineering Services communicated with the supervisor, the impact of which created a misimpression with the supervisor, that he was being chastised for doing his job regarding the Engineered Safeguard Activation System (ESAS) project. Following this exchange, the supervisor contacted the director of Millstone's Nuclear Safety Concerns Program regarding the conversation, who in turn discussed the issue with the former Vice President for Nuclear Engineering Services. In a meeting at which the Director of Nuclear Engineering was present, the Manager was counseled regarding his communication skills. Shortly thereafter, consistent with the former Vice President's direction, the Manager and Director met with the supervisor in order to clarify the intent of the Manager's earlier communication with him.

Throughout a ten month extended outage, issues arose with the job performance of the supervisor which caused management to conclude he had not corrected past performance issues. These issues came at a time when the concept of a heightened level of accountability for performance and results was being promoted by top management. NNECO's understanding is that Engineering Department management interpreted that direction to mean that for supervisors and managers, NNECO's previous practice of lateral transfer or demotion was not an option. Engineering management, including the former Vice President for Nuclear Engineering Services and the Director of Nuclear Engineering, had also heard criticism that Engineering did not hold itself to the same level of accountability as other groups within the plant. As a result, the supervisor was inappropriately terminated for performance issues, without having been formally counseled on the nature of his performance difficulties and without being given an opportunity to improve his performance.

Following his termination, the supervisor utilized the Company's established grievance procedures. A Grievance Panel reversed the termination for reasons relating to the Company's internal policies and procedures, determining that the supervisor had not been appropriately counseled as to the performance issues which gave rise to his termination. Following the Panel's decision in 1997, the supervisor was reinstated to a non-supervisory position in the Nuclear Engineering organization, and was compensated fully for the time between his discharge and return. The supervisor is a current Millstone employee.

NNECO concedes that this was an unfortunate incident during which the Company's established personnel policies and procedures were not followed. NNECO also acknowledges that at the time, the Company and its employees, including the Director of Nuclear Engineering and the Manager of Nuclear Design Engineering Services, were not sufficiently sensitive to the perception of retaliation which could be created by situations such as the supervisor's termination. While NNECO is unaware of any information to indicate that the Director of Nuclear Engineering and the Manager of Nuclear Design Engineering Services recommended the removal of the supervisor because of the supervisor's protected activity, NNECO sees little value in revisiting a personnel decision which took place nearly four years ago. Moreover, since the termination in August 1995, the Director of Nuclear Engineering and the Manager of Nuclear Design Engineering Services have consistently demonstrated a heightened awareness for the importance of avoiding even a perception of discrimination, and NNECO has no reason to believe that the circumstances which gave rise to the NOV will recur. Accordingly, NNECO is not contesting Violation C.

Corrective Steps That Have Been Taken and Results Achieved

One of the principal lessons NNECO has learned from Millstone's past is that how employees perceive management's actions is as important as the true motivation for those actions. All three apparent violations occurred before NRC issued its Order Requiring Independent Third Party Oversight of NNECO's Implementation of Millstone Station's Employee Safety Concerns Program (October 24, 1996). In response to that Order, NNECO took broad and extensive corrective actions in the area of assuring a safety-conscious work environment exists. Those actions have been successful and current management is maintaining a work environment in which employees are encouraged by management to raise concerns and supervision responds appropriately to employee concerns. The comprehensive actions taken by NNECO to establish and maintain a Safety Conscious Work Environment at Millstone are more fully described in letters to the NRC dated March 31, 1998, April 24, 1998, and December 9, 1998.⁽²⁾

In its submittal dated March 31, 1998, NNECO reported to the NRC that it had established a Safety Conscious Work Environment (SCWE) at Millstone which supported the restart of Unit 3. NNECO's letter of April 24, 1998, provided the NRC with a more detailed explanation of the SCWE organizational changes, the

⁽²⁾ NNECO Letter to NRC, B17138, "Readiness letter - NRC Order on Employee Concerns," dated March 31, 1998; NNECO Letter to NRC, B17214, "Supplement to Millstone SCWE Readiness Letter," dated April 24, 1998; and NNECO Letter to NRC, B17501, "Request of Closure of NRC Order dated 10/24/96, Requiring Independent, Third-Party Oversight of NNECO's Implementation of Employee Concerns," dated December 9, 1998.

U.S. Nuclear Regulatory Commission
B17776 Attachment 1 Page 6

decision making process, and the performance measures NNECO is using to guide its SCWE transition from a recovery organization to a steady state operational organization. In its submittal dated December 9, 1998, NNECO demonstrated that: (a) NNECO has corrected the conditions which led to the imposition of the Order; (b) the corrective actions taken to date have produced sustained, acceptable performance; and (c) programs, plans, and processes are in place to continue to enhance future performance.

Through this set of correspondence, NNECO has demonstrated that it has in place an integrated plan to monitor the future work environment at Millstone and a specific action plan to enhance the work environment. To assure itself that it will continue to have a timely and accurate assessment of the work environment, NNECO has developed and is implementing a SCWE Assessment Plan. That plan calls for the conduct of regular assessments and audits by a variety of Company resources, including self-assessment by line management, Nuclear Oversight, the Employee Concerns Oversight Panel (ECOP), the Nuclear Safety Assessment Board (NSAB), and the Nuclear Committee Advisory Team (NCAT) to the Nuclear Committee of the Northeast Utilities Board of Trustees. In addition to these assessments and audits, Little Harbor Consultants, Inc., will be utilized to conduct quarterly, independent, third-party assessments to ensure that the SCWE at Millstone continues to progress, and to be available to employees and managers to assist in addressing SCWE issues.⁽³⁾ NNECO continues to assess its performance under the four success criteria originally used to determine the existence of a SCWE, as well as in response to specific challenges. NNECO's performance monitoring and quarterly assessments continue to demonstrate steady, improving performance.

Following a January 1999, Commission briefing devoted largely to the topic of the Millstone SCWE, the NRC also determined that NNECO had made sufficient progress under the October 1996 Order to warrant its lifting, and, by letter dated March 11, 1999,⁽⁴⁾ determined that no further actions need to be done with respect to the Order.

Corrective Steps That Will be Taken To Avoid Further Violations

To avoid circumstances in the future similar to those recounted in Violations A and B, NNECO is taking steps to provide greater checks and balances, as well as documentation, as part of future reorganizations. For example, the current organizational realignment in progress at Millstone is being conducted pursuant

⁽³⁾ NNECO Letter to NRC, B17679, "Proposed Scope of Services of LHC Following Closure of the 10/24/96 NRC Order," dated March 2, 1999.

⁽⁴⁾ NRC Letter to NNECO, A14047, "Order Requiring Independent, Third-Party, Oversight of Northeast Nuclear Energy Company's Implementation of Resolution of the MP Employee's Safety Concerns," dated March 11, 1999.

to a proven procedure that better documents the basis for actions. All employees are eligible to express interest in available positions. The unsuccessful applicants can receive feedback, if desired, and can challenge the decisions in accordance with an established process. In short, the decision making process being utilized in the ongoing organizational realignment is inclusive, collaborative, capable of being audited, and, to the greatest extent possible, objective. These features were not included in the 1993 Nuclear Engineering reorganization, and the failure to have such safeguards in place likely contributed to the perception that management made improper decisions. Undeniably, the process used in 1993, and the absence of full management disclosure of the process, left some employees with unanswered questions and misimpressions about management's process.

The Executive Review Board (ERB) in place at Millstone provides an additional level of assurance that situations such as Violation C will not occur. As described in NNECO's previous correspondence,⁽⁵⁾ the ERB was established to provide additional checks and balances to ensure that disciplinary actions and contractor reductions at Millstone are not retaliatory and that discipline is consistently applied. The ERB reviews all proposed written reprimands, suspensions, demotions, removal from duties, reductions in force and terminations for both NNECO employees and contractor personnel. Matters proposed for ERB consideration are first reviewed by the SCWE organization, which performs a review to determine: (1) whether the worker for whom discipline is proposed has engaged in any protected activity, and if so, whether any retaliatory motive may be involved in the recommended discipline; (2) whether the proposed action is consistent with similar past actions, and appears appropriate; and (3) whether the proposed action has created, or is likely to create, a chilling effect on the affected work group or the site. At the ERB meeting to consider the case, the SCWE organization reports on these matters, and the Board determines whether, in light of these considerations, to approve or disapprove the proposed action. In the approximately one and one half years that it has been in place, NNECO has found the ERB to be an effective tool in identifying and resolving potential issues regarding proposed personnel actions.

In addition to the review of proposed personnel actions, the ERB has provided advice to management on proposed programs and decisions. On many occasions, management has consulted with the ERB to determine the potential effect of a decision on the workforce and the work environment. In the current realignment, for instance, the ERB and representatives from the SCWE organization reviewed the processes and practices being utilized. Had such advice been solicited and considered in the 1993 reorganization, the events described in Violations A and B may have been avoided.

⁽⁵⁾ NNECO Letter to NRC, B17138 "Establishment of a Safety Conscious Work Environment" dated March 31, 1998.

NNECO has also taken action to assure that no chilling effect on the willingness of the current workforce to raise safety concerns results from the violations which are the subject of this Notice of Violation. On April 20, 1999, shortly after issuance of the Notice of Violation, the Chief Nuclear Officer for Millstone addressed the issues raised by the enforcement action in a special edition of the Millstone Station publication, *To the Point*. In this publication, the Chief Nuclear Officer reflected on the fundamental changes which have taken place and progress which has been made in achieving a safety conscious work environment at Millstone in the years since the apparent violations occurred. He also reiterated his commitment to take action against any leader in the Millstone organization who is not properly performing his or her SCWE responsibilities.

NNECO recognizes that good performance is not necessarily self-sustaining. As indicated in the *To the Point* publication, each member of the management team receives a specific grade in his or her annual performance review for the ability to foster a strong SCWE and related activities. As a supplement to the initial SCWE training conducted in 1998, SCWE refresher training is being conducted for the Millstone management team beginning in May 1999. The training will review the key principles taught in the initial course and draw on examples from recent events. Topics for discussion include management's response to allegations of discrimination and chilling effects, contractor supervision, managing employees engaged in protected activity, and balancing the communication of an event to the workforce with respect for the personal privacy of individuals.

Date When Full Compliance Will Be Achieved

NNECO is currently in full compliance with 10 CFR 50.7. Nonetheless, as outlined in the previous sections, NNECO will continue to be vigilant in maintaining and enhancing its environment to ensure employees feel free to raise issues without fear of retaliation, and management responds to such issues in a manner to engender trust and respect.