

Release

FOLLOW UP ALLEGATION ACTION PLAN

AMS NO. RIII-98-A-0146

Licensee: Byron

Docket/License No: 50-454/455

Assigned Division/Branch: DRS/PSB

Allegation Review Board Membership:

Chairman - G. Grant

R. Paul - OI / B. Berson

W. Slawinski, Acting Chief PSB

J. Hopkins / R. Doornbos / B. Clayton

A. Kock, PSB

J. Grobe / S. Reynolds (DRS)

M. Jordan

GENERIC CONCERNS: If Yes Explain:

DISCUSSION OF SAFETY SIGNIFICANCE:

OI ACCEPTANCE: YES NO (Priority: HIGH NORMAL LOW)

OI Case 3-98-038 for discrimination (Closed on 7/21/99)

OI has Accepted Concern(s) No(s).

Signature of Accepting OI Official:

Basis for OI Priority:

- ARB MINUTES PROVIDED TO Dyer, PSB, OI 7/26/99

COMMENTS:

Follow up ARB for New Concern # 9 identified during conversation w/ CI on 6/29/99.

Allegation Review Board Chairman

7-26-99
DateDI
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AMS No. RIII-98-A-0146

Each stated concern or NRC identified issue should be documented on a separate sheet. Each concern must be documented and written with enough detail to allow thorough follow up.

Concern No. 9

The CI is being treated differently than other technicians ⁱⁿ the same work area. The CI's work receives more management interest and review than other technicians.

Regulatory Basis: Possibly 10 CFR 50.7

I. Action Evaluation: The following method of resolution is recommended (circle):

- A. Send to Licensee Requesting Response in ____ Days. (Describe the general areas we expect the licensee to address.)
- B. Priority RIII Follow up and Closure Memo to OAC.
- C. Follow up During Routine Inspection Within ____ Days and Closure Memo to OAC.
- D. Refer to OI. Recommended Priority: HIGH NORMAL LOW
Recommended Basis:
- E. Outside NRC's Jurisdiction. Describe Basis Below.
- F. Too General for Follow-up. Describe Basis Below.

G. Other (specify) - See Below

Responsible for Action - See Below

II. Special Considerations/Instructions:

- PSB to review the OI report (3-1998-038) and exhibits to determine if the issue was discussed during the OI interviews.
- PSB to provide the results of its review and a recommendation for follow-up action, if any, in a memo to OAC3. (Since PSB has an action item to review the OI report, the response may be included in that memo.)
- Since the review of the OI report is due 8/4/99, this action is also due 8/4/99.

FOLLOW UP ARB: RIII-98-A-0146

July 22, 1999

MEMORANDUM TO: W. Slawinski, Acting Chief, PSB, DRS

FROM: J. Hopkins / R. Doornbos, RIII - OAC

SUBJECT: **FOLLOW UP ARB: RIII-98-A-0146 (Byron)**
OI Case No. 3-1998-038 (Closed Unsubstantiated 7/21/99)*J. Hopkins 7-22-99*

During a follow-up conversation on 6/29/99 related to the CI's new RP concerns at Byron (RIII-99-A-0099), the CI indicated that he/she was being treated differently than the other RP technicians by RP management. (See attached conversation record.) The example provided by the CI was that the results of surveys from other RP technicians did not receive the same management interest or review as the CI's surveys.

The CI had a previous allegation of employment discrimination (concern 3) which was investigated by OI (OI Case No. 3-1998-038). The OI completed investigation report was released on 7/21/99. OI did not substantiate the alleged discrimination. The OI report and exhibits were provided to DRS for PSB's review.

During OI's investigation, one of the CI's supervisors was asked if the CI has held to a higher (work) standard than the other technicians. The supervisor said no. However, the supervisor indicated that because of the quality of the CI's work, the CI receives higher scrutiny. (An excerpt from the OI interview is attached.)

Because the example provided by the CI may represent an example of employment discrimination that was not investigated by OI, it was entered into the allegation program as concern # 9, RIII-98-A-0146.

A Follow up ARB has been scheduled for Monday, 7/26/99. Please review the attached information to prepare for the ARB.

cc w/attachments:

ARB Copy

OI

RC

DRP Br Chief M. Jordan

DRS Division Director For Rx Cases

B. Clayton

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF INVESTIGATIONS

- - - - -X

In the Matter of: :

INVESTIGATIVE INTERVIEW :

Joseph A. Bauer :

(CLOSED) :

- - - - -X

Nuclear Regulatory Commission
Region III Field Office
801 Warrenville Road
Lisle, Illinois 60532-4351

Tuesday, July 6, 1999

The above-entitled matter came on for interview,
pursuant to notice, at 10:01 a.m.

BEFORE: MARY KAY FAHEY, Special Agent

ANN RILEY & ASSOCIATES, LTD.
Court Reporters
1025 Connecticut Avenue, NW, Suite 1014
Washington, D.C. 20036
(202) 842-0034

RCf

1 So anyway, I had Greg go and get the, quote, PIF,
2 and this is it. You can see it's wrinkled. This was the
3 PIF that Shirley told the station manager that she wrote
4 that Greg wrinkled up. It's clearly a piece of 5-by-8 --
5 5-by-6 scrap paper.

6 Q Okay.

7 A So I did -- I was very sensitive to that at the
8 time. There was no merit to that accusation.

9 Q Okay.

10 A So no, to my knowledge, no one in RP had ever
11 discouraged any of the technicians from writing a PIF.

12 Q Okay. And a couple of last questions. Is Kennedy
13 held to a higher standard than any of the other RP techs?

14 A No. The answer is no. But I will put a caveat on
15 that. During the course of all of the discussion, Shirley
16 is genuinely recognized as someone who doesn't do quality
17 work, and the foremen are uneasy about putting her on
18 high-risk jobs. So subsequently, human nature would have it
19 that I believe that they check her work possibly more than
20 another technician that they might have a higher confidence
21 level in. I think that's noteworthy.

22 So very objectively, if Shirley would say, hey, my
23 work is looked at closer than another technician, I guess I
24 couldn't deny that, but I think that's appropriate during
25 the course of all of these events because she had been

1 making errors that required a higher scrutiny out of our
2 duty. So I don't want to be quiet about that. I think that
3 her work probably did get more attention than an average
4 technician who did quality work.

5 Q And does she have a higher number of tech
6 evaluations?

7 A Yes, she does.

8 Q And for the same reason?

9 A You can argue for that reason, or you could argue
10 just simply because she makes more errors.

11 Q Okay. And then one thing I want to talk to you
12 about, and you might not have any notes. On October 2nd,
13 1998, you approached Nick Hilton, the NRC resident inspector
14 --

15 A Yes, I did.

16 Q -- at Byron about Kennedy, and can you just tell
17 us for the record what prompted this unsolicited
18 conversation?

19 A Yes. Well, obviously, this was the aftermath of
20 the radwaste ladder issue. Since it was October 2 -- I
21 didn't, you know, I didn't even record when I talked to
22 Nick, I don't believe. At least I don't have it in here.
23 But bear with me a second, I'll see if I can find it. I
24 might have written down what I had discussed with Nick.

25 No, I don't have that.

SENSITIVE ALLEGATION MATERIAL

June 29, 1999

MEMO TO: G. Shear, Chief, PSB, DRS
FROM: J. Hopkins, Senior Allegation Coordinator *J. Hopkins 6-29-99*
SUBJECT: CONVERSATION WITH CONCERNED INDIVIDUAL (CI)
AMS FILE NO. RIII-99-A-0099 (Byron)

On 6/29/99, there were three (3) separate telephone conversations between the CI and RIII personnel. Below is my summary of the conversations:

3:40 - 4:00 p.m. (CI and Hopkins)

1. The CI provided two examples of areas where the radiological postings exceeded the actual radiological conditions in the areas.

Ex. 1 The CI had conducted a radiation survey of some areas on the 401' and 426' elevation of the plant. (The CI did not state if the areas were in the auxiliary building or reactor building nor did the CI explain if the area was Unit 1 or Unit 2. The CI did not give the date of the survey. Based on my conversation w/ the CI, this probably occurred sometime within the previous two weeks.) The CI stated that the survey results were that the areas were < 1mR/hr. The CI also stated that the areas were posted as Danger - High Radiation Areas.

The CI provided the survey results to management along with a recommendation that the area posting revised and the area not be posted. The CI stated that management had been unable to reach a decision.

Ex. 2 The CI conducted a survey of a room on the 346' elevation. (The CI did not state if the areas were in the auxiliary building or reactor building nor did the CI explain if the area was Unit 1 or Unit 2. Based on my conversation w/ the CI, this probably occurred sometime within the previous two weeks.) The CI stated that the survey results were that the areas were < 1mR/hr. The CI also stated that the areas were posted as Danger - High Radiation Areas.

The CI provided the survey results to management along with a recommendation that the area posting revised and the High Radiation boundary be moved. The CI stated that multiple RP management reviewed the CI's survey and physically went to the area to see the proposed change. The CI stated that management had not made a decision on revising the boundary.

The CI also stated that same area on the other unit was survey and similar results were obtained. The CI stated that the RP technician who survey the other area moved the boundaries to reflect the actual radiological conditions. The CI stated that the results of the other survey had not received the same management interest or review as the CI's survey. The CI stated that he/she was being treated differently.

Concern #9, RIII-98-A-0146

QUESTION FROM CI

The CI wanted to know if the NRC "had a problem" with an area being "over posted?" The CI stated that RP management had told the RP technicians that the NRC had "gigged" the licensee for "over posting" areas. The CI also stated that he/she (the CI) did not want to be criticized by licensee management for "over posting" an area.

I informed the CI that this issue of revising the radiological posting appeared to be a management prerogative. I also stated that it was my impression that the NRC would not become involved in an issue like this unless the area was "under posted."

I informed the CI that I would contact NRC RIII RP specialists to get additional information on "over posting" an area. The CI agreed to wait for a return call.

NRC REQUESTED INFORMATION FROM THE CI

I asked the CI to provide a copy of the two survey forms and to provide a written statement of the CI's concern. I informed the CI that we would review the information and inform the CI of the results of our review. The CI agreed to provide the information in the next couple of days. (No specific date was provided.)

2. RADIOLOGICAL POSTING ON THE INSIDE OF A DOOR

The CI described a situation where a room (with only one ingress/egress point) was posted Danger - High Radiation Area on the outside of the door. The CI stated that the hallway (or area adjacent to the doorway) was a posted Radiation Area. (An individual would be in a radiation before getting to the High Radiation door.)

QUESTION FROM CI

The CI asked if the NRC required that the inside of the door be posted with a sign informing personnel leaving the room (the High Radiation Area) that they would be entering a Radiation Area?

I informed the CI that I would contact NRC RIII RP specialists to get additional information. The CI agreed to wait for a return call.

3. Identity Protection

For all of the issues the CI had brought to our attention since 6/2/99 (i.e., the information faxed by the CI (6/2 - 6/4/99) and the concerns identified during the CI's conversations with Ms. A. Kock (6/8 - 6/10/99), I asked if the CI objected to having his/her identity released or objected to having the concerns forwarded to the licensee?

The CI **did** object to having identity released and **did not** object to having the concerns forwarded to the licensee, consistent with having his/her identity protected.

I informed the CI that because the CI had informed licensee management of the concerns, if the NRC referred the concerns to the licensee, then the licensee could likely conclude that the CI was the source of the information to the NRC. The CI stated that he/she understood that the licensee could likely conclude that the CI was the source of the information to the NRC, and again **did not object** to having the concerns referred to the licensee.

4. Public Document Room

The CI asked how to obtain copies of NRC inspection reports? I informed the CI that the public document room for the Byron plant was probably in the public library at Byron. I suggested that the CI contact the public library.

I also suggested that the CI contact the licensee's regulatory assurance organization for a copy of any NRC inspection report.

4:20 - 4:30 p.m. (CI, Shear, and Hopkins)

Regarding the examples of areas where the radiological postings for an area exceeded the actual radiological conditions in the areas, and if the NRC "had a problem" with an area being "over posted," Shear and Hopkins informed the CI of the following:

- RIII inspection staff had discussed "over posting" of the containment building during the steam generator replacement project. Shear explained that situation was that even though most of the High Radiation work had been completed and only a few actual High Radiation areas remained, the entire containment was posted a High Radiation Area. The NRC questioned if it was a good practice to have the entire containment posted High Radiation. Shear explained that the NRC's concern was more of potential "de-sensitizing" the employees rather than a regulatory concern.
- Shear informed the CI that the general issue of "over posting" had been discussed with the RIII licensee's at RP work shops.
- Shear also informed the CI that there was no regulatory guidance associated with "over posting" an area.

The CI did not have any additional questions.

4:50 - 5:00 p.m. (CI and Hopkins)

After Shear and I completed our conversation, I recalled that the CI had asked two questions - the second being if the NRC required that the inside of the door be posted with a sign informing personnel leaving the room (the High Radiation Area) that they would be entering a Radiation Area? Below is my summary of Shear's explanation:

- There was no regulatory guidance associated with posting on the inside of the door.
- Since an individual was required to read and understand the radiation work permit (RWP) to enter the Radiation Area that was outside of the High Radiation Area door, then it was reasonable to expect that the individual would know what the radiological conditions were when the High Radiation Area was exited.
- The decision to post the radiological conditions on the inside of the door appeared to be a management prerogative.

I contacted the CI with the information provided by Shear. The CI did not have any additional questions.

OAC Summary of the Conversations

- Based on the information provided during the conversations, the CI had questions and did not raise any new safety concerns. The CI seemed to accept the answers to the two questions and did not raise other questions.
- The CI agreed to provide a copy of the two survey forms for the 346' elevation and to provide a written statement of the CI's concern. I informed the CI that we would review the information and inform the CI of the results of our review. The CI agreed to provide the information in the next couple of days. (No specific date was provided.)
- The CI **did** object to having identity released and **did not** object to having the concerns forwarded to the licensee, consistent with having his/her identity protected.

I informed the CI that because the CI had informed licensee management of the concerns, if the NRC referred the concerns to the licensee, then the licensee could likely conclude that the CI was the source of the information to the NRC. The CI stated that he/she understood that the licensee could likely conclude that the CI was the source of the information to the NRC, and again **did not object** to having the concerns referred to the licensee.