

**United States
Nuclear Regulatory Commission**



Report of Investigation

BYRON NUCLEAR STATION

**Deliberate Violation of Radiation Protection Procedures
by a Maintenance Mechanic**

Office of Investigations

Reported by OIRIII

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Act, exemptions 5 & 7C
FOIA- 2000-0243

E/2

Title: BYRON NUCLEAR STATION

**DELIBERATE VIOLATION OF RADIATION PROTECTION PROCEDURES
BY A MAINTENANCE MECHANIC**

Licensee:

**Commonwealth Edison Company
1400 Opus Place, Suite 500
Downers Grove, IL 60515**

Docket No.: 50-455

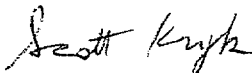
Case No.: 3-1999-047

Report Date: June 22, 2000

Control Office: OI:RIII

Status: CLOSED

Reported by:



**Scott W. Kryk, Special Agent
Office of Investigations
Field Office, Region III**

Reviewed and Approved by:



**Richard C. Paul, Director
Office of Investigations
Field Office, Region III**

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ADMINISTRATIVE ACTION AND/OR CRIMINAL PROSECUTION.**

SYNOPSIS

This investigation was initiated on November 22, 1999, by the U.S. Nuclear Regulatory Commission, Office of Investigations, Region III, to determine if a maintenance mechanic deliberately violated radiation protection procedures at the Byron Nuclear Station.

Based upon the evidence developed during this investigation it was substantiated that a maintenance mechanic deliberately violated radiation protection procedures at the Byron Nuclear Station.

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LIST OF INTERVIEWEES

	<u>Exhibit</u> <u>No.</u>
DONNELLY, Patrick, Maintenance Program Supervisor	15
NOLAN, Karl, former Maintenance Superintendent, currently Rotating Equipment Specialist	12
SCHIPPER, Kurt, Mechanical Maintenance "A" Man from the Quad Cities Station	14
SOBER, James, Radiation Protection Technician	17
SVOBODA, Mark, Radiation Protection Supervisor	16
WHELAN, Thomas, former Maintenance Mechanic	11
WISEMAN, James, Mechanical Maintenance Supervisor	13

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DETAILS OF INVESTIGATION

Applicable Regulations

Technical Specification 5.4.1: Administrative Controls - Procedures
10 CFR 50.5(a)(1): Deliberate Misconduct

Purpose of Investigation

This investigation was initiated on November 22, 1999, by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region III (RIII), to determine if Thomas WHELAN, a maintenance mechanic, deliberately violated radiation protection procedures at the Byron Nuclear Station (Byron).

Background

On November 22, 1999, OI self-initiated OI Case No. 3-1999-047 to determine whether Thomas WHELAN, a maintenance mechanic, deliberately violated radiation protection procedures at Byron.

On Wednesday, November 3, 1999, [REDACTED] EX7C
[REDACTED] informed NRC:RIII Radiation Specialist Ken LAMBERT of an apparent deliberate violation of a Byron Technical Specification regarding access to a high radiation area which occurred on November 2, 1999. It was reported that on November 1, 1999, WHELAN, a maintenance mechanic, informed the [REDACTED] at the radiation protection EX7C desk that he wanted to stage tools in preparation for work on a chemistry and volume control system valve, Unit 2 valve 214A. This valve was in a high radiation area and due to leaking was a potential high contamination area. Radiation Protection informed WHELAN that tools could be staged outside the high radiation area, but due to the high radiation and potential high contamination, WHELAN needed to be signed onto Radiation Work Permit (RWP) 992586 and attend an As Low As Reasonably Achievable (ALARA) pre-job briefing before being granted access to the work area.

On the morning of November 2, 1999, WHELAN informed the radiation protection desk that he was going to perform work under RWP 992565 (routine mechanical maintenance work) and signed onto that RWP. During a pre-job briefing for the control system valve work, the work crew reviewed containment cameras to identify where the valve was located and observed WHELAN removing insulation from around the control system valve. WHELAN was escorted out of containment by the radiation protection staff and was locked out of the radiation protection

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area. The licensee's mechanical maintenance department is investigating the incident and WHELAN is on leave until the licensee investigation is completed. (Exhibit 1)

Coordination with NRC Staff

On November 22, 1999, an NRC Allegation Review Board was held to discuss the information surrounding the allegation and OI determined that a potential willful violation of 10 CFR 50.5(a)(1), Deliberate Misconduct, had occurred when WHELAN deliberately violated radiation protection procedures required by the Byron technical specifications. As a result, OI:RIII self-initiated an investigation of this allegation. (Exhibit 2)

Coordination with Regional Counsel

The investigation was initiated with the concurrence of the NRC:RIII Counsel, Bruce BERSON,

Allegation: Deliberate Violation of Radiation Protection Procedures by a Maintenance Mechanic

Summary

The testimony provided during interviews was reviewed regarding the allegation involved in this investigation. In addition, various documents related to the allegation, which are listed in the Review of Documentation section of this report, were also reviewed. Copies of the interviews and documents obtained by OI:RIII are attached as exhibits to this report.

Review of Documentation

The following documents were obtained and reviewed in relation to this case:

Commonwealth Edison's (ComEd's) internal investigation, dated November 6, 1999, was reviewed. The report concluded that WHELAN, identified as "TW," entered the high radiation area on November 2, 1999, without permission from the radiation protection technician and without the proper RWP. He was also observed in the area on a television monitor. By entering the area improperly, WHELAN violated Byron Procedure 575-9, Radiation Work Permit Program, Step 5.2.e, Controls for High Radiation Areas, Steps 5.1.5 and 5.4.1, and Byron Specifications 5.7.1. (Exhibit 3)

Problem Identification Form (PIF) B1999-03979 was obtained. The PIF disclosed that a worker entered the high radiation area without proper approval on November 2, 1999. The PIF further

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stated that there was no radiation protection support and that the worker was instructed not to enter the high radiation area. (Exhibit 4)

ComEd's Administrative Procedures and Controls, Section 5.4 - Procedures, Section 5.7 - High Radiation Area, and the Radiation Work Permit Program - Byron Procedures 575-9, Revision 10, was obtained. The ComEd procedures list the rules and specifications that employees must abide by. Records attached by ComEd to the procedures show that WHELAN entered the high radiation area under RWP 992565, but that he should have entered under RWP 992586. (Exhibit 5)

ComEd's training records for WHELAN were obtained for the period from 1995 to August 1999. The training records show that WHELAN's training from ComEd included the following courses (Exhibit 6):

- Nuclear General Employee Training (NGET) - 2/99
- General Hazardous Material Communication - 12/98
- NGET re-qualification - 11/98
- Nuclear Radiological Respiratory training - 11/98
- NGET re-qualification - 10/97
- Byron Good Work Practices - 1/97
- NGET re-qualification - 12/96
- Byron Advance Rad Worker Training - 12/96
- NGET re-qualification - 12/95

On November 2, 1999, WHELAN was questioned by ComEd management about his entry into the high radiation area earlier that day. A transcript of the interview was obtained from ComEd. During the questioning, WHELAN acknowledged that he did not attend the ALARA briefing and that he entered the area on the incorrect RWP. He further admitted that he entered the area on his own accord without getting approval from his foreman. (Exhibit 7)

On November 8th and 9th, WHELAN met with ComEd management and Human Resources and

[REDACTED] EX 7C
[REDACTED] (Exhibit 8)

A Personnel Access Database System (PADS) entry was obtained from ComEd which shows that WHELAN was employed by ComEd from February 23, 1984, until November 9, 1999, at Byron.

[REDACTED] (Exhibit 9) EX 7C

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Personnel information was obtained from ComEd concerning WHELAN's
The file showed that WHELAN had the following

record.

EX7C

(Exhibit 10):

EX7C

11/08/99
07/28/98

04/09/99
07/09/96
02/14/96
08/29/95
04/25/95
10/14/94
04/08/94
03/28/90
02/25/86

EX7C

WHELAN was contacted telephonically on January 27, 2000, for an interview with NRC:OI regarding his November 2, 1999 incident, which he declined. A Certified letter was later sent to him on January 27th requesting that he reconsider. His attorney, Joseph MILLER, responded to OI on February 2nd that his client has declined to interview with the NRC. (Exhibit 11)

Evidence

Interview of NOLAN (Exhibit 12)

Karl (Tim) NOLAN stated that he has been employed at ComEd for 18 years in the mechanical maintenance department as a rotating equipment specialist. During the time of the WHELAN incident, he said that he was second in command to the department head, which is a maintenance superintendent position. He said that WHELAN reported to a first line supervisor, and that the first line supervisor reported to him as a second line supervisor. NOLAN added that he has known WHELAN for 18 years. (Exhibit 12, pp. 5-6)

NOLAN related that WHELAN was assigned to prefab replacement valves on November 1st, the day prior to the incident, and said that another welder was assigned WHELAN's duties the following day (November 2nd). During the pre-job briefing on November 2nd, a television monitor was positioned in the high radiation area to show the area to the employees. He said that while the employees were viewing the area, WHELAN entered the high radiation area, retrieved his welding rod, and set a prefabbed valve down before leaving the area. He said that WHELAN did not have permission to be in the high radiation area. He added that it is also against ComEd policy to leave a weld rod in that area overnight. (Exhibit 12, pp. 7-9)

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NOLAN pointed out that while inside the high radiation area, WHELAN "popped" the insulation off a valve and let it drop to the floor without wearing respiratory equipment, and that he entered under the wrong RWP. He added that WHELAN did not have permission to be in that area. NOLAN indicated that WHELAN knew without a doubt that he was violating procedures by entering the high radiation area. He acknowledged that as a result of this incident and his prior incidents, WHELAN is no longer employed at ComEd. (Exhibit 12, pp. 10-13)

NOLAN said that WHELAN was in the high radiation area for less than 5 minutes. According to NOLAN, there was a concern that WHELAN may have contaminated the surrounding area and received an uptake himself. NOLAN explained that the radiation area is roped off with purple and yellow roping and that it is also labeled with a placard. He related that in order to access the area, you need a specific RWP, assistance from a technician, and you must cross a swing gate. (Exhibit 12, pp. 16-20)

NOLAN reported that WHELAN also did not adequately complete his paperwork for the prefab assignment. He said that WHELAN had completed the paperwork the day before, and that he had recorded that the work was performed and that the insulation had been removed, even though it had not. NOLAN said that WHELAN had filled out the paperwork in advance (on November 1st), which is improper, so he may have removed the insulation (on November 2nd) to cover himself. (Exhibit 12, pp. 21-22)

Interview of WISEMAN (Exhibit 13)

James WISEMAN related that he has been employed at ComEd for 12 years, 9 years in the bargaining unit, and the last 3 years in management as a front line mechanical maintenance supervisor. He said that WHELAN was assigned to his crew during the outage as a senior welder. WISEMAN added that he has known WHELAN for 12 years. (Exhibit 13, pp. 5-6)

WISEMAN related that he informed WHELAN on November 1st at the post-job brief around 5:00 p.m. that WHELAN was not going to be on the same job the following day. He said that WHELAN was a senior welder and he had other walk down work for him to complete while some less experienced welders could perform the finishing work. WISEMAN stated that on November 2nd, he told WHELAN at the pre-job brief to take along Kurt SCHIPPER, a traveling mechanic from Quad Cities, and to go perform his new welding assignment. WISEMAN further stated that, "Tom understood. You know, I told him, You're not on this job; you're on this job over here. You know, do you understand? He understood his whole line of what he had to do" (Exhibit 13, p. 9). WISEMAN said he later started conducting his ALARA brief for the other work group and observed WHELAN on the television monitor enter the high radiation area and remove insulation from the pipe. WISEMAN said that he immediately contacted his supervisor, NOLAN, to inform him what had happened. (Exhibit 13, pp. 8-11)

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WISEMAN retrieved WHELAN and informed him that he had violated radiation practices. He said that WHELAN did not like to play by all the rules or follow the company's policies and procedures. WISEMAN confirmed that WHELAN was not supposed to be in that area, but that he chose to go in there without the correct RWP, in violation of ComEd procedures. (Exhibit 13, pp. 11-14)

WISEMAN commented that WHELAN has a prior record of violating rules at ComEd, including disciplinary actions. WISEMAN confirmed that he specifically told WHELAN that he was assigned to another job in the plant, and that WHELAN understood that he was to be doing other work in the plant and not continuing with his prior assignment. WISEMAN recalled instructing everyone that morning that if you are not on the correct RWP, then you should not enter the area. He added that the high radiation area was marked off with magenta roping, placards, and a swing gate. WISEMAN concluded by saying that WHELAN knew what he was doing was wrong, but that he did it anyway. (Exhibit 13, pp. 19-26)

Interview of SCHIPPER (Exhibit 14)

Kurt SCHIPPER stated that he has been employed at ComEd for over 12 years at the Quad Cities plant in Cordova and that he traveled to Byron to work the outage. He said his job title is a mechanical maintenance "A" man, which includes being a lineman to machining. (Exhibit 14, pp. 4-5)

SCHIPPER said that he worked with WHELAN on various welding jobs on November 1st and 2nd under WISEMAN. He said that on November 2nd, they were welding valves inside the containment, and that he remained on fire watch after each welding job. SCHIPPER related that they were instructed by a radiation technician not to enter the high radiation area they had been working on the prior day. SCHIPPER indicated that he did not go back into the area, but also added that he did not observe WHELAN enter the area either. SCHIPPER said that he had to continue on a fire watch assignment for another 30 minutes when WHELAN left the job site for approximately 10 minutes. SCHIPPER said that he did not know where WHELAN went during that period. (Exhibit 14, pp. 6-10)

According to SCHIPPER, they were brought back to the shop shortly afterwards and questioned about their whereabouts. He said that the foreman, WISEMAN, took WHELAN off the job and sent him (SCHIPPER) to another job. SCHIPPER said that he was not disciplined, but later learned from WISEMAN that WHELAN had improperly entered a radiologically controlled area without authorization. (Exhibit 14, pp. 12-13)

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Interview of DONNELLY (Exhibit 15)

Patrick DONNELLY stated that he has been employed at ComEd as a maintenance program supervisor since August of 1999. He added that he has been in the nuclear industry since 1970 and that he was in the nuclear Navy prior to that. (Exhibit 15, pp. 4-5)

DONNELLY related that WHELAN was working in radiologically controlled areas with a specific RWP required. He said that WHELAN was observed on a video monitor during a briefing when he was actually assigned to be working in a different area of the plant and that really surprised those viewing the monitor. DONNELLY indicated that WHELAN had returned to the area to retrieve his weld rod, which had been improperly stored there from the day before. He explained that with the proper authorization, WHELAN could have retrieved his equipment which he had stored there overnight, however, WHELAN entered the area without permission. (Exhibit 15, pp. 6-9)

According to DONNELLY, WHELAN also removed insulation from a contaminated valve while in the high radiation area. DONNELLY said that the insulation was going to be removed, but due to the unknown level of contamination on that valve, a number of controls were required prior to doing that work. He said that WHELAN had no face protection and could have exposed himself and increased the contamination levels in the surrounding area. (Exhibit 15, pp. 9-10)

DONNELLY said that WHELAN's explanation as to why he entered the area was that he was trying to help out his fellow workers because they were behind schedule. He said that WHELAN knew that he did not have the proper RWP to perform any work in the area, however, WHELAN felt that removing insulation was not considered physical work. DONNELLY countered by saying that removing the insulation was considered physical work. DONNELLY also confirmed that WHELAN had received basic radiological training, so he would have known not to enter the roped off area. (Exhibit 15, pp. 11-15)

DONNELLY said that he was part of the management team which determined WHELAN's discipline. He disclosed that WHELAN had a prior history of disregard and of circumventing radiation procedures, including a major disciplinary action the prior year. He indicated that WHELAN had knowledge that he was not supposed to be in the high radiation area and that he should not have stored a weld rod there overnight. (Exhibit 15, pp. 15-17)

DONNELLY concluded by saying that WHELAN did not sign in under the proper RWP to be working in the area where he was viewed on the television monitor. He said that WHELAN also exposed himself to a radiological hazard while he was in the area. DONNELLY confirmed that WHELAN improperly entered the area and performed unauthorized work, and that he most likely would not have been caught except for the video monitor. (Exhibit 15, pp. 21-23)

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Interview of SVOBODA (Exhibit 16)

Mark SVOBODA stated that he has been employed by ComEd for 19 years, 17 of those years at the Zion plant, and the last 2 years at Byron. SVOBODA said that he is a Radiation Protection Supervisor. (Exhibit 16, pp. 4-5)

SVOBODA related that he was in an ALARA brief using a remote monitoring system to display a valve involved in the upcoming job when a person entered the area and began removing insulation. He said that others in the briefing immediately recognized the employee as WHELAN. SVOBODA said that he went to the front desk technician, Jim SOBER, to determine why WHELAN was inside the containment area. SVOBODA said that SOBER advised him that WHELAN did not check in at the desk for permission to enter the area. SVOBODA stated that he discussed and turned the matter over to NOLAN, the maintenance supervisor, who also wanted to know if WHELAN had permission to be in the high radiation area. (Exhibit 16, pp. 6-8)

SVOBODA confirmed that employees are provided with radiation training annually during their NGET class. SVOBODA explained that WHELAN could not have entered the area by mistake as it is roped off with a swing gate entrance. He said that you must cross a physical barrier to enter the area. SVOBODA disclosed that he asked the front desk technician, SOBER, if WHELAN had the proper RWP and permission to enter the area, and SOBER responded that WHELAN did not. (Exhibit 16, pp. 13-16)

Interview of SOBER (Exhibit 17)

James SOBER stated that he has been employed at ComEd for 17 years, and that he has been a radiation protection technician for the last 16 years. He said that on November 2nd, Byron was in the middle of an outage and that he was running the front desk. SOBER recalled that on November 1st, WHELAN and a traveling mechanic approached him to work on a valve, and that WHELAN returned the following day, November 2nd, to inquire about another valve. SOBER said that he checked the survey, which showed that the valve was in a high radiation area and was highly smearable. SOBER instructed WHELAN that he was not to enter the area under any circumstances. SOBER told him that the radiation technicians first need to determine the low dose waiting areas and would also need to provide him with support before working on that valve. (Exhibit 17, pp. 4-6)

SOBER related that later that same morning, people came out of the ALARA briefing saying that they had seen WHELAN in the high radiation area, the same place that he was previously instructed not to enter. SOBER said that he specifically told him not to enter that area. SOBER disclosed that WHELAN sought permission from him to work on the highly contaminated valve,

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but was advised that he could not go into the area. SOBER said that due to the lack of engineering controls, air samplers, decontamination efforts, and high radiation levels, radiation protection support was required first. SOBER also revealed that WHELAN was on the incorrect RWP to enter the high radiation area. According to SOBER, he emphasized to WHELAN that he could not go into the high radiation area. (Exhibit 17, pp. 6-11)

SOBER said that WHELAN has been a radiation worker long enough to know better than to enter a high radiation area, particularly with the wrong RWP. He said that the maintenance workers are given basic NGET training every year. SOBER confirmed that WHELAN knowingly and purposely went into the high radiation area, even after he was emphatically instructed not to go into the area. He added that WHELAN has a cavalier attitude towards radiation practices, and pointed out that WHELAN has had other radiation violations. (Exhibit 17, pp. 13-15)

Interview of WHELAN

Thomas WHELAN, former ComEd maintenance mechanic, declined to interview with OI on January 27th. A second attempt to interview WHELAN was declined by his attorney, Joseph MILLER, on February 2nd.

WHELAN interviewed with ComEd Managers NOLAN, WISEMAN, DONNELLY, and MARTIN on November 2, 1999. WHELAN was asked why he entered the high radiation area on November 2nd and he replied that he needed to retrieve his weld rod and to take off the insulation. WHELAN further stated that he did not have permission to enter the area and he was not instructed to remove the insulation. WHELAN was informed that his job had been reassigned to another employee, and he responded that he entered the area because he had to retrieve his weld rod. WHELAN acknowledged that no one had asked him to remove the insulation from the valve. WHELAN admitted that he knew that he was reassigned to another job, but that he wanted to help out. He disclosed that he went through the barrier without asking, but added that he was in the high radiation area for only 1 minute. He added that he was not afraid of a little extra dose. WHELAN acknowledged that he was in the area with an RWP that did not apply to that area. WHELAN revealed that he took it upon himself to enter the area without asking permission, and that his foreman, WISEMAN, did not know of his actions. (Exhibit 7)

Agent's Analysis

WHELAN was instructed by his foreman, WISEMAN, on November 1st, that he was being moved to a different duty location and that he was no longer working on the valve welding job. WISEMAN said that WHELAN fully understood this work order. WHELAN approached the

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radiation technician, SOBER, on November 2nd and sought permission to enter the high radiation area. SOBER specifically told him that he could not enter the high radiation area because he was on the wrong RWP, he did not have a respirator, the area needed to be further evaluated by the radiation technicians for contamination and to determine safe areas, and that he would need a radiation technician escort. However, WHELAN knowingly entered the high radiation area on November 2nd and removed insulation from a highly contaminated valve, and he retrieved a weld rod that he had improperly stored there from the evening before. WHELAN entered the high radiation area under RWP 992565 for routine work, when he knew that he needed to be on another RWP (992586) for high radiation work.

WHELAN was observed entering the high radiation area on a closed circuit television monitor by several co-workers. The monitor was aimed at the valve to display the work area to the crew during an ALARA meeting, and several workers immediately recognized and identified WHELAN as the person on the monitor. WHELAN was performing his other assigned duties when he left his helper, SCHIPPER, for approximately 10 minutes. SCHIPPER stated that he was performing a fire watch after completion of a weld job and that he did not know where WHELAN went during that period. It was during this period when WHELAN left SCHIPPER that he returned to the high radiation area and knowingly entered it against the instructions from the radiation technician, SOBER, and against the instructions from his foreman, WISEMAN. WHELAN ~~by ComEd~~ by ComEd for entering the high radiation area without permission or the correct RWP entry code. EX 7C

Conclusion

Based upon the evidence developed during this investigation, it was substantiated that WHELAN, a maintenance mechanic, deliberately violated radiation protection procedures at Byron.

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SUPPLEMENTAL INFORMATION

On June 15, 2000, William P. SELLERS, Senior Litigation Counsel, Criminal Division, Fraud Section, U.S. Department of Justice, Washington, D.C. 20001, advised that in his view, the case did not warrant prosecution and rendered an oral declination.

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Investigation Status Record, OI Case No. 3-1999-047, dated November 22, 1999.
2	Allegation Review Board, Allegation No. RIII-99-A-0185, dated November 22, 1999.
3	ComEd's internal investigation, dated November 6, 1999, entitled, "Rad Worker Practice Violation/Individual Performance Issue, PIF B1999-03979."
4	PIF B1999-03979, dated November 2, 1999, entitled, "Worker entered High Rad. Area without proper approval."
5	ComEd's Administrative Procedures and Controls, Sections 5.4 - Procedures, 5.7 - High Radiation Area, and the Radiation Work Permit Program - BAP 575-9, Revision 10, Byron Units 1 and 2.
6	ComEd's training records for WHELAN from 1995 to August 1999, dated April 7, 2000, entitled, "Training Administration System Person Course History List."
7	ComEd Transcript entitled, "Meeting with Tom WHELAN, November 2, 1999, 10:30 A.M.," regarding WHELAN's entry into the high radiation area earlier that day.
8	ComEd Transcript entitled, "Meeting with Tom WHELAN, 2:00 P.M., November 9, 1999," regarding WHELAN's [REDACTED] EX 7C
9	A PADS entry for WHELAN from ComEd dated January 20, 1999.
10	Personnel information from ComEd concerning previous [REDACTED] for EX 7C WHELAN, dated January 11, 2000, as follows: A [REDACTED] dated November 8, 1999. EX 7C B [REDACTED] EX 7C

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C PIF dated April 9, 1999.
D Employee interview, dated July 9, 1996.
E dated February 14, 1996.
F dated
August 29, 1995.
G Complaint on job assignment, dated April 25, 1995.
H dated October 14, 1994.
I , dated April 8, 1994.
J Employee Interview, dated March 28, 1990.
K Memo: dated February 25, 1986.

EX 7C

- 11 Certified letter sent to WHELAN by NRC:OI requesting an interview, dated January 27, 1999, regarding his November 2, 1999, incident.
- 12 Transcript of Interview with NOLAN, dated April 20, 2000.
- 13 Transcript of Interview with WISEMAN, dated April 20, 2000.
- 14 Transcript of Interview with SCHIPPER, dated April 20, 2000.
- 15 Transcript of Interview with DONNELLY, dated April 20, 2000.
- 16 Transcript of Interview with SVOBODA, dated April 20, 2000.
- 17 Transcript of Interview with SOBER, dated February 29, 2000.

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