

November 28, 2001

EA-01-264

Mr. Michael A. Balduzzi
Senior Vice President & Chief Nuclear Officer
Vermont Yankee Nuclear Power Corporation
185 Old Ferry Road
P.O. Box 7002
Brattleboro, Vermont 05302-7002

SUBJECT: Corrected Copy of NRC Letter Dated November 20, 2001, Entitled "Office of Investigations Report No. 1-2000-009S"
(Department of Labor Case No. 2000-ERA-00037)

Dear Mr. Balduzzi:

Our previous letter to you dated November 20, 2001, which transmitted the synopsis of the subject OI investigation and also referenced a related Department of Labor (DOL) finding, contained an error in the first sentence of the third paragraph. Specifically, the sentence erroneously indicated that the DOL Occupational Safety and Health Administration Area Director's decision occurred on August 29, 2000. The DOL decision was actually issued on August 25, 2000, as correctly noted in the second paragraph of that letter. A corrected copy of the first page of that letter is enclosed.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Reading Room).

Sincerely,

/RA/

Wayne D. Lanning, Director
Division of Reactor Safety

Enclosure: As Stated

Docket No. 50-271
License No. DPR-28

cc w/encl:

R. McCullough, Operating Experience Coordinator - Vermont Yankee

G. Sen, Licensing Manager, Vermont Yankee Nuclear Power Corporation

D. Rapaport, Director, Vermont Public Interest Research Group, Inc.

D. Tefft, Administrator, Bureau of Radiological Health, State of New Hampshire

Chief, Safety Unit, Office of the Attorney General, Commonwealth of Massachusetts

D. Lewis, Esquire

G. Bisbee, Esquire

J. Block, Esquire

T. Rapone, Massachusetts Executive Office of Public Safety

D. Katz, Citizens Awareness Network (CAN)

M. Daley, New England Coalition on Nuclear Pollution, Inc. (NECNP)

R. Shadis, New England Coalition Staff

State of New Hampshire, SLO Designee

State of Vermont, SLO Designee

Commonwealth of Massachusetts, SLO Designee

David C. May, DOL - OSHA Area Director

DISTRIBUTION w/encl:

ADAMS (PARS)

SECY

CA

OEMAIL

OEWEB

WTravers, EDO

WKane, DEDR

FCongel, OE

DDambly, OGC

LChandler, OGC

SCollins, NRR

JJohnson, NRR

MSykes, NRR

Enforcement Coordinators RII, RIII, RIV

BBeecher, OPA

HBell, OIG

PLohaus, OSTP

GCaputo, OI

LTremper, OC

MBergman, OEDO

EAdensam, NRR

DBarss, NRR

RPulsifer, PM, NRR

DStarkey, Backup PM, NRR

HMiller, RA

JWiggins, DRA

WLanning, DRS

RBlough, DRP

DScrenci/NSheehan, PAO-RI

DHolody, RI

RUrban, RI

BFewell, RI

GMatakas, RI

CAnderson, DRP

BMcDermott, DRP - NRC Resident Inspector

Region I Docket Room (with concurrences)

RJunod, DRP

DOCUMENT NAME: C:\Program Files\Adobe\Acrobat 4.0\PDF Output\VermontYankee-Discrim-Rev.wpd

After declaring this document "An Official Agency Record" it will be released to the Public.

To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure "E" = Copy with attachment/enclosure "N" = No copy

OFFICE	RI/ORA	RI/ORA	RI/DRS		
NAME	Rurban (RJu)	Dholody (DJH)	Wlanning (WDL)		
DATE	11/27/01	11/28/01	11/28/01		

OFFICIAL RECORD COPY

November 20, 2001

EA-01-264

Mr. Michael A. Balduzzi
Senior Vice President & Chief Nuclear Officer
Vermont Yankee Nuclear Power Corporation
185 Old Ferry Road
P.O. Box 7002
Brattleboro, Vermont 05302-7002

SUBJECT: OFFICE OF INVESTIGATIONS REPORT NO. 1-2000-009S
(DEPARTMENT OF LABOR CASE NO. 2000-ERA-00037)

Dear Mr. Balduzzi:

On April 19, 2000, the U. S. Department of Labor (DOL) received a discrimination complaint from a former contract employee at Vermont Yankee. The former contract employee alleged that his contract was terminated because he had raised safety concerns while performing his duties at Vermont Yankee.

On August 25, 2000, the Area Director for the DOL Occupational Safety and Health Administration (OSHA) office in Concord, New Hampshire, found that the evidence obtained during its investigation indicated that the former contract employee was engaged in a protected activity within the scope of the Energy Reorganization Act, and that discrimination as defined and prohibited by the statute, was a factor in the actions which comprised his complaint. Vermont Yankee appealed the OSHA finding to a DOL Administrative Law Judge (ALJ). However, prior to the DOL ALJ reaching a decision on the merits of the case, Vermont Yankee reached a mutually agreeable settlement with the former contract employee in this matter. The settlement was approved on January 8, 2001, by a DOL Administrative Law Judge in a Recommended Decision and Order Approving Settlement, which thereby dismissed the complaint with prejudice.

Subsequent to the DOL OSHA Area Director's decision on August 25, 2000, the NRC sent you a letter on October 2, 2000. The letter requested that you provide your position on this matter and any actions you had taken or planned to take concerning a chilling effect this decision may have had on the willingness of other Vermont Yankee employees to raise safety concerns. Although your response dated October 21, 2000, provided your position that retaliation did not occur, you did describe actions taken to address any potential chilling effect.

After the settlement was approved by the DOL ALJ, the NRC Office of Investigations (OI) initiated an investigation to determine if the former contract employee had been discriminated against by Vermont Yankee management for engaging in protected activities. The investigation was completed on September 28, 2001, and based upon the evidence developed during this investigation, OI did not substantiate that Vermont Yankee management discriminated against the former contract employee for engaging in protected activities. The enclosure to this letter contains a synopsis of the OI report.