



January 8, 2002

AEP:NRC:2700

Docket Nos: 50-315
50-316

U. S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Mail Stop O-P1-17
Washington, DC 20555-0001

Donald C. Cook Nuclear Plant Units 1 and 2
RESPONSE TO U. S. NUCLEAR REGULATORY COMMISSION LETTER
REGARDING ALLEGED DISCRIMINATION
(U.S. DEPARTMENT OF LABOR DOCKET NO. 2001-ERA-236)

In a U. S. Nuclear Regulatory Commission (NRC) letter dated October 12, 2001, the NRC requested that Indiana Michigan Power Company (I&M) inform the NRC of any actions it has taken, or will take, to ensure that the workforce at I&M's Donald C. Cook Nuclear Plant (CNP) feels free to raise safety concerns in light of an alleged incident of discrimination in January 2000.

In a complaint filed March 15, 2000, with the U.S. Department of Labor (DOL), the owner of American Nuclear Resources (ANR)/Scope, a former contractor at CNP, alleged that I&M terminated ANR/Scope's contract for ice condenser services on January 7, 2000, in violation of Section 211 of the Energy Reorganization Act. In a letter dated January 29, 2001, Mr. John A. Grobe (NRC) informed I&M that an investigation into the events described in the complaint conducted by the NRC Office of Investigations (OI) did not substantiate that discrimination in violation of 10 CFR 50.7, "Employee Protection" occurred. However, on June 29, 2001, the DOL Occupational Safety and Health Administration (OSHA) informed I&M that it found that the owner's protected conduct was a factor in the contract termination. I&M disagrees with OSHA's finding and has requested a hearing before a DOL Administrative Law Judge.

The NRC asked I&M to identify "any actions it has taken, is taking, or plans to take to prevent these events from having a negative effect on the willingness of all plant employees, whether I&M or contractor, to raise safety concerns."

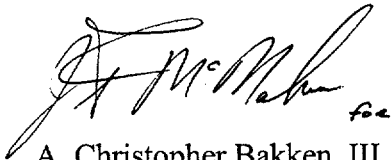
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As described in detail in the attachment to this letter, I&M continues to take actions designed to maintain a safety conscious work environment (SCWE) at CNP. In particular, we continue to monitor our workforce's willingness to raise concerns, communicate our expectations and standards on the resolution of those concerns, provide SCWE training and promptly investigate and resolve allegations brought to our attention. Maintaining an SCWE is a continuous process.

We believe that these actions have not only been effective in maintaining an SCWE, but also in avoiding any chilling effect that may have resulted from the termination of ANR/Scope's contract. The work environment at CNP was assessed both before and after the termination of ANR/Scope's contract. Each of these assessments has shown that the CNP workforce is not reluctant to raise safety concerns.

Please contact me at (616) 466-2400 if you have any further questions on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Christopher Bakken, III". The signature is fluid and cursive, with a small "for" written at the end.

A. Christopher Bakken, III
Senior Vice President

attachment

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ATTACHMENT TO AEP:NRC:2700

As a preliminary matter, the termination of the American Nuclear Resources (ANR)/Scope ice condenser contract in early January 2000 is not likely to have a significant impact on the current working environment at Donald C. Cook Nuclear Plant (CNP). The complaint filed by the owner of ANR/Scope was received by Indiana Michigan Power Company (I&M) on April 4, 2000. The existence of the complaint was not widely publicized and the circumstances surrounding the complaint were discussed primarily among senior management, legal counsel, and those employees involved in ANR/Scope's work who are likely to be witnesses in that proceeding. All of the ANR/Scope contracts were terminated by April 15, 2000, and no subsequent contracts have been entered into with that contractor. Since the departure of that contractor, we do not believe that the general workforce has been aware of the complaint or the results of the Occupational Safety and Health Administration (OSHA) investigation (which came over a year and a half after the events described in the complaint).

In addition, I&M continues to take actions designed to maintain a safety conscious work environment (SCWE) at CNP. These actions are described in detail below. They were effective in ensuring that I&M's decision to terminate its contracts with ANR/Scope did not negatively impact the willingness of CNP's workforce to raise safety concerns. Indeed, assessments both before and after the termination of ANR/Scope's contracts demonstrate that CNP's workforce remains willing to raise concerns without fear of retribution.

I&M's SCWE Policy

I&M is committed to maintaining an SCWE at CNP. I&M has a specific site policy encouraging workers to raise safety concerns. This policy is contained in PMI 2015, "Policy for Maintaining a Safety Conscious Work Environment." The policy recognizes the relationship between an SCWE and safe operation. It outlines the duty of all personnel to promote an SCWE, and the existence of numerous ways by which a worker can raise, and obtain resolution of, his or her concerns. It expressly states that retaliation in any form will not be tolerated:

Essential to safe operation is a safety conscious work environment where all workers are free to raise concerns and question activities without fear of reprisals. AEP will not tolerate harassment or intimidation of, or retaliation or discrimination against an employee because the employee raises a safety concern.

All workers have a duty to maintain a safety conscious work environment within AEPNG by promoting a workplace environment in which employees are encouraged to raise concerns and where such concerns are promptly reviewed, given the proper priority based on their potential safety significance, and appropriately resolved with timely feedback to employees.

To foster a Safety Conscious Work Environment, AEP has established a variety of avenues by which workers may report and obtain resolution of safety concerns, including the Employee Concerns Program.

This policy is readily available to the workforce on the CNP computer system, as well as in hardcopy form.

Communications to the Workforce

CNP senior management has reinforced I&M's SCWE policy and company expectations to all CNP workers during all-hands meetings held in 1999 and 2000 prior to the restart of both CNP units after their extended outages.

An employee's right to raise issues, the mechanisms available to do so, and I&M's zero tolerance policy regarding retaliation for reporting concerns are also a frequent subject of articles in CNP's daily newspaper, the Daily Plan-It. Since January 2000, the Daily Plan-It has published 28 articles addressing one or more of these topics. For example, a recent article published on October 19, 2001, identified ten separate mechanisms available to CNP workers to raise concerns, including the worker's direct supervisor, other management personnel, the Corrective Action Program, the Employee Concerns Program (ECP), the Human Resources department, utilizing the Differing Professional Opinion process, and contacting the U. S. Nuclear Regulatory Commission (NRC). The article also described I&M's expectations regarding the role of all CNP's personnel in fostering and maintaining an SCWE:

Each of us have a role in developing a safety conscious work environment -- one in which individuals feel free to speak out about any safety or quality concern without fear of retaliation. Each of us must be sensitive to the concerns of others without rushing to discount their views. We can also fulfill our role in a safety conscious work environment by helping each other be more aware of how to report safety concerns.

SCWE topics are also frequently included on the plant's closed circuit television system, Plan-It Vision.

SCWE Training

I&M further reinforces SCWE concepts and responsibilities through a number of training programs provided to the workforce. For example, the site Nuclear General Employee Training (NGET) provided to all workers seeking, or having access to the plant, identifies and describes CNP's SCWE policy, reiterates I&M's strict prohibition of discrimination for raising safety or quality concerns, and presents the various mechanisms available to raise concerns. All personnel with site access must successfully complete NGET annually.

A large portion of the CNP workforce attended training focused specifically on SCWE. This training, provided by the ECP, discusses the rights and obligations of all personnel to raise nuclear safety and quality concerns, and the multiple avenues for doing so. The training also

presents workers with information concerning how to report concerns confidentially or anonymously.

CNP supervisors and managers also receive training on management's particular responsibilities in the promotion and maintenance of an SCWE. The majority of CNP supervisors and managers received this training as a stand-alone course. The training is conducted by the ECP and/or legal staff on an ongoing basis as a specific module during supervisory training for new supervisors. Included in this training is compliance with 10 CFR 50.7 and Section 211 of the Energy Reorganization Act, NRC expectations regarding SCWE, ways in which management personnel can encourage employees to raise concerns, and methods that have been effective for resolving concerns to the employees' satisfaction.

Employee Concerns Program

The CNP ECP is one of the options available to workers for raising and resolving concerns independent of line management. As such, it provides a safety net to workers who may not feel comfortable raising issues to their direct management. The ECP is widely publicized to the workforce and is highlighted in NGET and SCWE training, posters and pamphlets distributed throughout CNP, and in the Daily Plan-It and on Plan-It Vision. The ECP conducts confidential investigations of concerns with the identities of individuals disclosed only on a need-to-know basis. The program provides feedback to the concerned individual. Similarly, customer feedback forms are provided to persons using the ECP requesting candid feedback on ECP's performance. To date, the vast majority of individuals that have completed a feedback form have expressed satisfaction with the ECP process.

The ECP is also sensitive to the potential that legitimate employment decisions could impact the willingness of workers to raise concerns. For this reason, the ECP is tasked with conducting targeted assessments of the work environment of particular workgroups where the potential for a chilling effect may exist.

Contractor Responsibilities

I&M requires that companies with which it contracts to provide services at CNP:

- understand the scope of activities protected by 10 CFR 50.7, comply with these regulations, and ensure that their employees working at CNP understand that they are free to raise concerns internally or to the NRC;
- notify I&M within two days of receiving an allegation of discrimination or a complaint before the Department of Labor, and investigate and resolve the allegations; and
- cooperate with I&M's investigation into these matters.

These requirements are memorialized in I&M's contracts with each of its contractors. I&M also re-emphasizes these obligations during meetings held with the senior management of its

contractors at least annually. At these meetings, ECP and legal staff representatives present the CNP site policy against discrimination for engaging in protected conduct, management expectations for an SCWE, and the legal rights and obligations created by 10 CFR 50.7. The most recent of these meetings was held on September 26, 2001. Prior meetings were held on September 18, 2000, December 7, 1999, and December 17, 1998.

CNP Work Environment

I&M has assessed the work environment at CNP both before and after the termination of ANR/Scope's contracts and found that workers remain willing to raise safety concerns without fear of retribution. An assessment completed in September 1999 found that CNP workers were not hesitant to identify issues, or to elevate those issues to higher levels of the organization if necessary. Similar results were noted through the use of anonymous surveys provided to 1737 CNP workers, both employees and contractors, at the close of SCWE training sessions conducted during the Summer and Fall of 2000. These surveys found that over 97% of the participants agreed with the statement "I feel free to approach management regarding any nuclear safety or quality concern." Similarly, over 95% of the participants agreed with the statement "I believe that I can raise any nuclear safety or quality concern without fear of retaliation."

The NRC has reached similar conclusions. For example, in a February 2001 inspection report, the NRC concluded that our workforce showed no reluctance to identify safety issues. This finding was based on "information collected from personnel interviews and review of issues in the corrective action program." This inspection took place long after the termination of ANR/Scope's contracts and the filing of the DOL complaint. This finding is echoed in the 2000 Annual Report of the NRC Allegations Program which found no indications that employees are afraid to raise concerns within I&M or externally.

The numbers of condition reports written by CNP workers during the years 2000 and 2001 provide demonstrable proof that the workforce is not reluctant to raise issues. CNP workers initiated 18,197 condition reports in 2000 and 11,690 in 2001.

Moreover, the CNP ECP has received very few allegations of discrimination related to protected conduct. Only 12 such allegations were filed with ECP in 2000 and 5 in 2001 -- none of which were substantiated. Consistent with this trend, the numbers of allegations of all types submitted by CNP workers directly to the NRC have also diminished over the course of the last two years, with 25 allegations submitted in 2000 and 11 for 2001.

In conclusion, we believe that an SCWE is well-established at CNP and that the actions discussed above have been effective at ensuring that the terminations of the ANR/Scope contracts did not negatively impact the willingness of plant employees to raise safety concerns.