

EDO Principal Correspondence Control

FROM: DUE: 11/06/02 EDO CONTROL: G20020564
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FINAL REPLY:

Thomas Saporito
National Environmental Protection Center

TO:

Travers, EDO

FOR SIGNATURE OF : ** GRN ** CRC NO:

Collins, NRR

DESC:

ROUTING:

2.206 - Whistleblower Complaints

Travers
Paperiello
Kane
Norry
Craig
Burns/Cyr
Skay, NRR
Goldberg, OGC

DATE: 10/02/02

ASSIGNED TO: CONTACT:
NRR Collins

SPECIAL INSTRUCTIONS OR REMARKS:

**NATIONAL ENVIRONMENTAL PROTECTION CENTER**

October 1, 2002

William D. Travers
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

RE: PUBLIC PETITION TO NRC UNDER 10 C.F.R. 2.206
GE Medical Systems/Saporito/4-1050-02-054; and
Adecco Technical/Saporito/4-1050-02-055

Dear Executive Director Travers:

The National Environmental Protection Center ("NEPC") by and through its undersigned Executive Director submit this public petition to the U.S. Nuclear Regulatory Commission ("NRC") under 10 C.F.R. 2.206 requesting certain and specific actions by the NRC as delineated below:

Please be advised that the undersigned has acted to create a public organization called the "National Environmental Protection Center" ("NEPC"), and continues research to develop NEPC in to a nonprofit educational organization advocating the enforcement of environmental laws and regulations under the U.S. Environmental Protection Agency ("EPA"), the enforcement of nuclear safety under the U.S. Nuclear Regulatory Commission ("NRC"), and the enforcement of "whistleblower" employee protection provisions promulgated under 29 C.F.R. Part 24 and implemented under the Clean Air Act ("CAA"), 42 U.S.C. 7622 (1988); the Toxic Substances Control Act ("TSCA"), 15 U.S.C. 2622 (1988); the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. 300j-9(i) (1988); the Safe Drinking Water Act ("SDWA"), 42 U.S.C. 6971 (1988); the Solid Waste Disposal Act ("SWDA"), 42 U.S.C. 6971 (1988); and the Energy Reorganization Act ("ERA"), 42 U.S.C. 5851 (1974) as amended. In general, these provisions prohibit employers from retaliating against employees who "blow the whistle" or otherwise engage in certain actions in furtherance of the enforcement of environmental statutes. Thus, a central function of NEPC is to represent whistleblowers in U.S. Department of Labor ("DOL") administrative proceedings under 29 C.F.R. Part 24, and to provide such representation on a contingency fee basis with the intent to recovery costs and fees through successful litigation of whistleblower complaints as provided under the applicable statutes.

REQUESTS FOR NRC ACTION UNDER 10 C.F.R. 2.206**REQUEST #1**

NEPC requests that NRC provide permanent public notice of NEPC contact information on the NRC Internet site

National Environmental Protection Center, P.O. Box 1234, Buckeye, Arizona 85326 Phone: 623-388-3909 FAX: 309-294-1305

BASIS FOR REQUEST #1

To insure public awareness of employee whistleblower protections and recourse and in furtherance of environmental laws and regulations for which the NRC is mandated and authorized under law to enforce as a matter of public policy. Indeed, the primary goal of NEPC is to ensure whistleblower disclosure of business operation in violation of environmental laws. Thus, NEPC's request to NRC for Internet posting of contact information is both proper and necessary on the part of NRC as a matter of public policy.

With respect to the instant proceedings captioned above regarding GE Medical Systems and Adecco Technical, please take official notice that NEPC has been duly authorized by the undersigned, to represent the Complainant, in this case on a pro se basis, but nonetheless acting as the Executive Director of NEPC. These proceedings are currently before the Occupational Safety and Health Administration ("OSHA") and are being actively investigated under 29 C.F.R. Part 24 by the OSHA Fort Lauderdale, Florida Area Office, Regional Investigator Clarence Kugler. NEPC is actively participating in that investigation and has acted to engage in pre-hearing discovery through the request of admissions, request of interrogatories, request of production of documents, and notices of depositions. These proceedings center around the undersigned's discharge from employment from the General Electric Company, GE Medical Systems facility located at 100 Marquette Drive, Jupiter, Florida 33458. The discharge occurred almost immediately after the undersigned noticed GE management about significant environmental safety and health concerns which violated Environmental Protection Agency ("EPA") laws and regulations. As stated above, these proceedings were brought under environmental statutes other than the ERA; however the ERA was noted insofar as it prohibits retaliation by NRC licensees with respect to a hostile work environment.

REQUEST #2

NEPC requests that NRC require the General Electric Company ("GE") to affirm under oath that it maintains non-hostile work environments in compliance with 10 C.F.R. 50.7 at all of its operations and facilities regulated and/or licensed by NRC.

REQUEST #3

NEPC requests that NRC issue directives to all NRC Regional Administrators requiring NRC inspection activities at all NRC licensed facilities owned, operated, contracted, or managed by GE or GE affiliates to determine if a hostile work environment exists in violation of NRC requirements, NRC regulations, and/or 10 C.F.R. 50.7.

REQUEST #4

NEPC requests that NRC require GE to provide written documentation detailing employee concerns programs in effect at all GE facilities licensed by NRC; and that NRC analyze and evaluate GE's employee concerns programs to ensure that they provide a confidential means for employees to raise safety and health concerns to GE management and/or NRC.

REQUEST #5

If GE does not incorporate any or some employee concerns programs responsive to REQUEST #4 above, NEPC requests that NRC require GE to implement such a program at all of its operations and facilities licensed by NRC.

BASIS FOR REQUESTS #2, #3, #4, AND #5

The NRC places a high value on nuclear industry employee's freedom to raise potential safety concerns both to licensee management and to the NRC without fear of reprisal or actual harassment and intimidation. Section 211 of the Energy Reorganization Act (ERA), as amended and 10 CFR 19.20, 30.7, 40.7, 50.7, 60.9, 61.9, 70.7, 72.10, and 76.7 provide that no employer may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee engaged in certain protected activities. These protected activities include notifying an employer of an alleged violation of the Atomic Energy Act or the ERA, refusing to engage in any practice made unlawful by those acts, testifying before Congress or in a Federal or State proceeding regarding any provision of these acts, or commencing, testifying, assisting, or participating in

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any manner in a proceeding under these acts. Licensees and contractors are responsible for ensuring that they do not discriminate against their employees for engaging in such protected activities. Licensees and contractors that discriminate against their employees who engage in protected activities are subject to sanctions by the NRC. These sanctions include notices of violation (NOVs) and civil penalties (CPs). In addition, under the Deliberate Misconduct Rule (see 10 CFR 30.10 and 10 CFR 50.5) licensee and contractor employees, including senior managers, are subject to sanctions by the NRC for discrimination against other employees who engage in protected activities. These sanctions include orders barring individuals from NRC licensed activities

GE does not facilitate any employee concerns program at its GE Medical Systems facility, which would provide employees and contract workers the ability to "confidentially" raise environmental safety and health concerns to GE management. Therefore it is reasonable to surmise that GE does not have any employee concerns programs in effect at any of its operations or facilities licensed by NRC. If GE does not maintain effective employee concerns programs at its operations and/or facilities licensed by NRC, a hostile work environment similar to that described in the above-styled OSHA complaints may exist in violation of NRC regulations and in violation of any NRC license held by GE. Such a situation would be a significant safety and health concern and a matter of public policy requiring NRC to act. Moreover, in the above described OSHA proceedings, GE management actually engaged in the retaliation of Complainant and failed to take any actions to abate that conduct even after the Complainant put GE management on notice complaining of a hostile work environment. Notably a senior Environmental Health and Safety ("EHS") manager at GE was directly involved and actually took part in the retaliation against the Complainant. Indeed, the culture at GE Medical Systems prohibits employees from raising environmental safety and health concerns outside the GE "chain-of-command" and subject employees to discipline and discharge for doing so. Therefore, it is more likely than not, that GE management at its NRC licensed operations and/or facilities maintain similar cultures and similar requirements on the workforce prohibiting and dissuading employees from raising environmental and nuclear safety and health concerns for fear of retaliation and discharge. Such a culture condoned by GE management would violate NRC regulations and requirements described above.

WHEREFORE, NEPC requests that NRC act on its 10 C.F.R. 2.206 Petition in a timely manner in the interest for the environment, the general public, and GE employees and GE contract workers.

Respectfully submitted,



Thomas Saporito
Executive Director, NEPC

CC: Jeff Immelt
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