

From: John Caruso *D. Vito*
To: DJV; JBF; SLJ *J. Fewell*
Date: 2/15/02 4:02PM *R.F.*
Subject: SENSITIVE ALLEGATION MATERIAL: ALLEGATION #RI-2002-A-0018 Update *S. Johnson*

Please see attached file.

CC: DCT; DJH; GWM; JFM; JGS; RJC; RSB1; RVC; WDL

D. Trimble | *G. Meyer* | *R. Conkle* | *W. Lanning*
D. Holody | *J. Munro* | *R. Barkley* |
J. Schoppa | *R. Crlenjak*

F-312

2/15/02

SENSITIVE ALLEGATION MATERIAL

Background

Allegation #RI-2002-A-0018 was received via a telephone call 2/8/02 from a licensee employee. The allegor indicated that the licensee had inappropriately taken action against a licensed RO who was escorted off the site on 2/4/02, placed on suspension with pay, and was having his license pulled for insubordination. Apparently, the RO had not carried out an order of a Control Room Supervisor (CRS) to trend a plant parameter. The allegor also indicated that at the time when the RO was escorted off the site, the operating crew was below required minimum TS manning.

Additional Information Subsequently Received for Subject RO

On or about 2/11/01, I received a voice mail from the subject RO requesting information regarding his appeal rights, if any, in the event the licensee took action to drop his license. I consulted with my Branch Chief, Rich Conte, OLB (IOHS) Branch Chief Dave Trimble and John Munro of OLB regarding the agencies position for an individual in this situation.

10 CFR 55.55 (a) states, "Each operator license and senior operator license expires six years after the date of issuance, upon termination of employment with the facility licensee, or upon determination by the facility licensee that the licensed individual no longer needs to maintain a license." Given that the NRC was not initiating any action for cause against this individual, the consensus opinion after reviewing the code and NUREG 1021 guidance, was the NRC technical staff believes the regulation appears clear on its face that the individual has no appealable rights to the NRC under the circumstances, but that, if the individual wants a final position, we'll have to confirm that with our legal staff. I will check with Brad Fewell, Regional Counsel when he returns next week for confirmation.

I spoke on the phone with the RO on the afternoon of 2/14/01 at approximately 4:00pm (returning the voice mail message he left with me). The RO indicated that he was aware that the allegor had contacted the NRC to express concern regarding the action against the RO. He restated his question left on my voice mail concerning possible appeal rights regarding any action the licensee might take to drop his license. I informed him of the NRC's technical staff position as stated in the previous paragraph above. In addition, in order to determine if he had any harassment and intimidation concerns, I asked the RO several different times during our conversation, if he had previously raised any nuclear safety issues that his management had not addressed appropriately. He indicated that this was not the case. I also discussed with the RO that the SRI Joe Schoppy had looked into whether at the time the RO was escorted off the site, the operating crew was below required minimum TS manning. I told him that the SRI had concluded that the minimum TS manning requirements had not been violated at that time. The RO offered that he agreed with the SRI's assessment that this was not a problem because of the 2 hour allowed grace period. The individual indicated that he did not intend to be insubordinate and that from his perspective he hadn't refused the CRS's order only that he did not have time to carry out the order at that moment. He admitted that unfortunately this was probably a misunderstanding and a personality conflict and did not involve in any way his previous raising

Inspector
assessment
of
shift
manning
issues

of safety concerns. However, he did indicate that he is a union steward and he felt the actions taken against him may have been the result of some of his previous dealings with management as the union steward representing some non-licensed operator complaints concerning non-safety personnel type issues. We discussed that this may be an issue for DOL consideration but would have no direct bearing on his appeal rights with the NRC in this matter.