



UNIVERSITY OF MISSOURI-COLUMBIA

Research Reactor Center

Research Park  
Columbia, Missouri 65211  
Telephone (314) 882-4211  
FAX (314) 882-3443

October 31, 1994

Director, Office of Enforcement  
U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555

REFERENCE: EA 94-121  
University of Missouri Research Reactor (MURR)  
License R-103

SUBJECT: Reply from MURR Director as referenced in the Demand for Information

This letter is provided as part of the Demand for Information that was included in the notice of violation dated September 12, 1994.

At the outset let me firmly assert that discrimination in any form and against any employee is personally repugnant to me, and any such discrimination by a member of the administrative organization reporting to me has not and will not be accepted. While this policy of zero-tolerance for employee discrimination or retaliation is not limited to discrimination or retaliation for reporting safety issues, this area definitely receives major emphasis due to the sensitive nature of the work performed at the Reactor Center.

I have, however, learned some significant lessons about how to respond to issues covered in 10 CFR 50.7, in particular, to insure that a chilling effect does not develop on the staff, and in providing continuous pro-active assurances to the staff regarding open reporting of safety issues and available avenues to accomplish this reporting. Implicit in this approach is the development and encouragement at the MURR Center of a culture that places foremost the awareness that all safety problems and concerns should be openly reported, and that the individual can do so with full confidence that there will be no retaliation for bringing these concerns to the attention of the appropriate individuals.

Explicit details are given later in this letter regarding new policies and procedures that we have instituted at the MURR Center to reinforce the above principles. Most significant are three items: (1) We shall continually reinforce to the staff in meetings, written communication, and safety indoctrinations the support of the Center management of the policies contained in 10 CFR 50.7 and the approaches to reporting safety concerns. (2) If we ever have another filing under 10 CFR 50.7 or, for that matter, have any significant personnel action, I and the rest of the management will take immediate steps to reinforce to the staff the protections afforded by 50.7 and to insure that no personnel action can result in chilling feeling or a reluctance to report safety issues free of fear



020147

COLUMBIA KANSAS CITY ROLLA ST. LOUIS

9411020234 941031  
PDR ADCK 05000186  
PDR

an equal opportunity institution

TE 14 1/0

of retaliation. (3) I have instituted a Center-wide performance evaluation system that provides a written record of any job performance deficiencies to each employee on a continuous basis. This is to reassure employees that capricious personnel action will not be taken, and to alleviate any possible chilling effect such uncertainty might have on their willingness to address safety issues.

In order to put these new initiatives in proper perspective, some background on the University and the Reactor Center operational methods and policies is appropriate. The University environment, by its very nature, encourages the free expression of contrary ideas and open access to officials at all levels by any member of the employee community. This is an environment very unlike the rigid organizational structure often found in private industry. One of the aspects intrinsic to our environment is the absence of University-wide policies requiring formal *written* notification to staff members of actions deemed not to be in the best interests of the University or the Research Reactor Center. Under the personnel policies for academic and exempt staff employees, these formalized warnings are replaced by oral discussions or verbal counselling in the expectation that such meetings will have the desired effect with reasonable individuals without the embarrassment of a written disciplinary notice appearing in a personnel file.

The above disciplinary system was in place in the personnel actions that led to the Department of Labor (DOL) complaint of Morris and Zinn. Meetings had been held with the supervisory level individual (Morris) at which time deficiencies and counterproductive actions on his part and on the part of his group related to lack of support for and inappropriate conveyance of opposition to new research policies of the Center were pointed out strongly. Nevertheless, because of the above mentioned University policy, nothing was written and placed in the personnel file. Before the demotion action (title change at the same salary) was taken against Morris as a last resort, multiple discussions were held with University officials two levels above the Reactor Director. The promotion of Zinn was not pushed forward for two reasons: (1) he had received his research degree only two months before, and (2) three other individuals having stronger credentials and the same rank had not yet been promoted.

I firmly assert and unequivocally state, backed by my record for personal honesty and integrity, that the personnel actions were for the reasons stated above, and were in no way related to or in response to raising safety issues or protected activities [in this regard please see the Independent Safety Assessment Team (ISAT) report page 8, top paragraph]. Nevertheless, I have instituted a policy that for any subsequent allegations of discrimination of which MURR management becomes aware, a written communication will be sent to all employees of MURR advising them 1) that the filing of such allegations is a right under federal law, 2) that federal law prohibits retaliatory actions against an individual exercising such right, and 3) that any retaliatory action in violation of such federal law will subject the retaliator to disciplinary action.

I also realize and am highly sensitive to the effect any personnel action has on the staff of the Center. In particular, mis-perceptions of the motivation for personnel actions can have negative repercussions on the staff. It is for this reason that I took a number of actions to inform and reassure the staff, starting immediately after the personnel action in March 1993. In particular I review the following items grouped by time period:

#### **1. Period Prior to April 1993** (Immediately following the Morris title change)

- a. March 12, 1993, a meeting was held with all the NAP group to explain the basis for the change in leadership, that the NAP effort was definitely to continue, and that all their jobs were secure. It was attended by most of the NAP technicians.

- b. March 12, 1993, a meeting was held at 12:30 with all the MURR Managers and Group Leaders. Copies of a statement titled *Expectations for MURR Supervisory and Leadership Positions* concerning the reasons for Morris' demotion were passed out.
- c. Memos were sent to the NAP group secretary, technicians, and research scientists on March 12 and 14 reiterating that the administrative change was not intended to disrupt the work of the group.
- d. March 12, 1993 a memo was sent to Kurt Zinn commending him on his work on the Irradiations subcommittee and the discovery of the omission of listing activity from Yb<sup>175</sup>.

Notes:

- (1) At this time, neither Dr. Morris, Dr. Zinn nor anyone else claimed that the demotion was the result of protected activities. Also, this was not the claim Morris made in a grievance filed with the University on March 17, 1993. To the best of our knowledge, the claim of discrimination for protected activity was not brought forth until the filing of Zinn's DOL complaint on April 11, 1993.
- (2) The University has a grievance procedure that includes several levels of appeal, each of which provides for review by University officials outside of the Reactor Center. Dr. Zinn chose not to file his alleged discrimination within the existing University procedure and instead filed the complaint with the Department of Labor. Dr. Morris also filed his DOL complaint before fully exercising all grievance remedies within the University system.

## 2. Period April-September 1993

An oral reprimand was delivered to a MURR administrator related to distribution of a memo that constituted an inappropriate management response and could contribute to a chilling effect on the staff. Details of this personnel action are contained in a letter to Mr. H. Miller and Ms. C. Pederson, of August 9, 1994 requiring confidentiality in accordance with 10 CFR 2.790.

I encouraged and fully supported an in-depth investigation of the personnel actions by the independent Reactor Advisory Committee (this report was circulated to the staff July 26, 1993) and a follow-up investigation in July 1994.

In this period a series of meetings were held advertised as "off the record" where topics were open and bringing forth of concerns of any type was encouraged. The following meetings in this format were held following the DOL hearings.

- a. A meeting was held on August 31 with the Neutron Materials Science Program that was an open meeting, but preceded the DOL hearings.
- b. Monday, September 20, 1993 -- 8:00-10:00, members of the Nuclear Analysis Program (all groups and program members were invited)
- c. Tuesday, September 21, 1993 -- 10:30-11:50, members of the Service Applications group
- d. Tuesday, September 21, 1993 -- 1:30-3:00, members of the Health Physics group

#### 4. Period July-September 1994

I personally endorsed and encouraged a resolution passed by the independent Reactor Advisory Committee on July 19, 1994, recommending a "...review with the University administration the importance of encouraging employees to feel free to raise any safety concerns and that University personnel policies be reviewed to ensure that they take into consideration the various protected activities within the University." I have made specific recommendations to my superior for implementing training sessions on license responsibilities for university officials and have identified an outstanding outside individual to conduct these.

A third series of open meetings was (is) being held, this time emphasizing the free and open reporting of safety concerns, and the available methods for making such reports. Meetings are again "off the record" and bringing forth all concerns, in addition to safety, has been strongly encouraged. Part of these meetings emphasized the University's commitment and the commitment of individual University administrators to safety and free reporting of safety concerns. Those that have been held to date (October 3, 1994) are [attendance lists are available and comprise a majority of the staff at MURR]:

- (a) August 5, 1994, Service Applications group
- (b) August 12, 1994, Radiopharmaceutical Group, the Electronics shop, the Mechanical Design Group, the Machine Shop, and the Drafting Group
- (c) September 23, 1994, Neutron Materials Sciences Group including students

Group Leaders, Managers and Supervisors have also been encouraged to take individual steps to ensure that an open safety environment exists in their groups and that employees have no hesitancy or reluctance to report problems of any kind or make suggestions for improvements. Assurances have again been given to them that this openness exists as a policy throughout the MURR management and reflects the policy of higher University officials as well.

In addition to the above specific employee-confidence-related measures, the Center is implementing a number of other changes designed to better assess our climate for safety and safety reporting and to pro-actively make changes in procedures and policies that will encourage this climate. The following are noted:

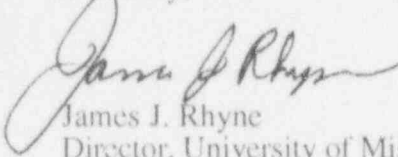
- a. The Reactor Center has expanded a statement about the need for reporting safety concerns and the channels available that is contained in the indoctrination pamphlet used for annual safety indoctrinations. This material has previously been covered orally by the health physics person conducting the training. Copies of the revised safety indoctrination pamphlet will be distributed to the staff. The question in our indoctrination questionnaire designed to determine the individual's knowledge of safety reporting procedures has been expanded to ensure that he/she understands the external option for addressing safety concerns *[above information contained in the text of a letter sent to Mr. H. Miller and Ms. C. Pederson, Region III, NRC on August 9, 1994]*.
- b. The Non-FEO training sessions are required training sessions for all staff members who are not members of the Facility Emergency Organization (FEO). This session provides instructions to workers regarding their response to emergency conditions. The 1994 training sessions were expanded to include coverage of 10 CFR 19, 10 CFR 20, 10 CFR 21 and 10

CFR 50. Strong emphasis was placed on reporting channels for safety concerns. All staff were reminded of their rights to request an inspection by the NRC if they felt their concerns were not addressed. They were informed that they were protected from discrimination with respect to certain activities. Finally, they were informed of their recourse if they felt they were discriminated against.

- c. We have implemented Center-wide a procedure for written performance reviews for all exempt employees (non-exempt employees have always been subject to progressive discipline reviews) again designed to reassure employees that they need not fear capricious personnel actions.
- d. The Center is developing an incident reporting system. Currently, only the Shipping Group is using the incident reporting forms while we evaluate the system. The importance of reporting any incident even if it can be corrected immediately is stressed, and the system provides for the tracking and required response to any and all identified problems.
- e. Finally the report, recommendations, and our implementation plan response to the safety review conducted by Dr. D. Klein (University of Texas-Austin), Dr. F. Remick (St. College, PA), and Dr. G. Hughes (Union Electric) has been addressed elsewhere in this communication.

I hope that this letter has conveyed the seriousness with which I personally respect and view the maintenance of an open safety environment and a climate free of any inhibitions to report safety issues (or any other problems) here at the Research Reactor Center. I also insist on a similar level of concern and responsiveness from all the research group leaders, operational managers and supervisors in the Center.

Sincerely,



James J. Rhyne  
Director, University of Missouri  
Research Reactor Center  
Professor of Physics