

UNITED STATES NUCLEAR REGULATORY COMMISSIONNORTHEAST UTILITIESMILLSTONE NUCLEAR POWER STATION, UNIT 1DOCKET NO. 50-245ISSUANCE OF DIRECTOR'S DECISION UNDER 10 CFR 2.206

Notice is hereby given that the Acting Director, Office of Nuclear Reactor Regulation, has taken action with regard to a Petition dated January 2, 1995, by Mr. Anthony J. Ross (Petition for action under 10 CFR 2.206). The Petition pertains to Millstone Nuclear Power Station, Unit 1.

In the Petition, the Petitioner asserted that (1) the Petitioner was "unjustly chastised" by his first-line supervisor and department manager about absenteeism, and his department manager threatened him in a memorandum; (2) his first-line supervisor willfully falsified nuclear documents in that he signed off on a surveillance of the gas turbine battery as having met acceptance criteria when the requirements had not been met; and (3) the Millstone Unit 1 organization failed to enter into a 4-day Limiting Condition for Operation as required by the Technical Specifications when the Operations Department was notified of the failed surveillance, in violation of 10 CFR 50.5. In addition, the Petitioner asserted that a number of violations have occurred in 1992 and 1993 related to the gas turbine battery, which have not been handled appropriately by the NRC and Northeast Utilities, and that the utility and NRC are engaged in an apparent "cover-up" of the problems.

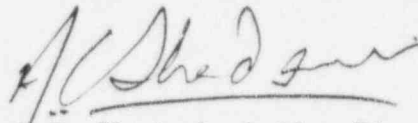
The Petitioner requested that the Nuclear Regulatory Commission (1) assess a Severity Level II violation and a Severity Level III violation against his department manager and his first-line supervisor for their apparent violations of 10 CFR 50.7; (2) institute sanctions against his first-line supervisor, Northeast Utilities, and the Millstone Unit 1 organization for engaging in deliberate misconduct in violation of 10 CFR 50.5; and (3) remove his first-line supervisor from his position until a "satisfactory solution to the falsifying of nuclear documents" by this individual can be achieved.

The Acting Director of the Office of Nuclear Reactor Regulation has determined to deny the Petition. The reasons for this denial are explained in the "Director's Decision Under 10 CFR 2.206" (DD-96-16 ), the complete text of which follows this notice and is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and at the temporary local public document room located at the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

A copy of the Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided by this regulation, the Decision will constitute the final action of the Commission 25 days after the date of issuance unless the Commission, on its own motion, institutes a review of the Decision in that time.

Dated at Rockville, Maryland, this 31st day of October 1996.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in dark ink, appearing to read 'A. C. Thadani', is written over a horizontal line.

Ashok C. Thadani, Acting Director  
Office of Nuclear Reactor Regulation

# ACTION

## EDO Principal Correspondence Control

FROM: DUE: 02/09/95

EDO CONTROL: 0000016  
DOC DT: 01/02/95  
FINAL REPLY:

Anthony J. Ross  
Waterford, Connecticut

TO:

James Taylor

FOR SIGNATURE OF :

\*\* GRN \*\*

CRC NO:

DESC:

2.206 PETITION REGARDING MILLSTONE (GAS TURBINE  
ATTERY)

ROUTING:

Taylor  
Milhoan  
Thompson  
Blaha  
Lieberman, OE  
Russell, NRR  
TtMartin, RI

DATE: 01/09/95

ASSIGNED TO:

CONTACT:

OGC

Cyr

SPECIAL INSTRUCTIONS OR REMARKS:

9500082

Anthony J. Ross  
16 Fulmore Drive  
Waterford, Connecticut 06385

January 2, 1995  
File: TR-5-002  
Certified U.S. Mail # P 878 476 736

Mr. James Taylor  
Executive Director for Operations  
United States Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

**SUBJECT**

10 CFR 2.206 Petition Requesting Nuclear Regulatory Commission Action for Escalated Enforcement Per 10 CFR 2 App. C.. Implementation of 10 CFR 50.5 Deliberate Misconduct Rule, and Implementation of 10 CFR 50.7 Employee Protection Rule.

Dear Mr. Taylor,

In accordance with the above captioned references, I Anthony J. Ross, employed by Northeast Utilities as a Station Electrician "A", in the Unit 1 Maintenance Department, at Millstone Nuclear Power Station located in Waterford, Connecticut request escalated enforcement action as outlined in 10 CFR 2 APP. C.

As a protected employee I am further requesting that specific actions be implemented against the individual outlined below under the provisions of 10 CFR 50.5 Deliberate Misconduct Rule, and 10 CFR 50.7 Employee Protection Rule.

**BACKGROUND INFORMATION**

On 9/20/94, I was given the task of performing the annual Emergency Gas Turbine Battery Surveillance, by my first line supervisor. The Emergency Gas Turbine is a QA CAT 1 safety related system, designed and required to auto / start under emergency conditions.

**ALLEGED VIOLATIONS**

1. Inadequate compliance with the provisions of 10 CFR 50.5 Deliberate Misconduct Rule, and 10 CFR 50.7 Employee Protection Rule.

On the day in question the Gas Turbine Battery failed the surveillance, because the resistance readings on some of the intercell bolted connections were greater than 65 micro ohms. The acceptance criteria per the procedure (SP 779.5), is less than or equal to 65 micro ohms. Additionally, per step 6.20 of SP 779.5, I notified the operations department, Shift Supervisor of the failed surveillance, and indicated the failed surveillance, by initialing the appropriate block on the surveillance cover sheet (MF 779.5-1). At that point, I notified my first line supervisor of the failed surveillance, and further indicated to him that I couldn't perform step 6.22 of the procedure, because we don't have access to the records to perform this step, which is to compare the readings with previous battery surveillance readings to determine if there is any deterioration of the battery system. At that point my first line supervisor told me that he would compare the readings for me. (we

now have copies of the previous battery readings to compare the readings per the procedure)

Furthermore, my first line supervisor signed the surveillance off as yes, referring to the "Acceptance Criteria Met" when clearly the requirements were not met per SP 779.5 & MF 779.5-1.

I informed Mr. Paul Swetland of your agency, of this very serious nuclear safety concern in detail. I have also provided Mr. Thomas Martin of the NRC with this concern in writing on October 5, 1994, including the applicable enclosures.

Most importantly, I'm sure you are well aware that willfully falsifying nuclear documents is an extremely serious violation.

Clearly my first line supervisor is in violation of 10 CFR 50.5 for willfully falsifying nuclear documents as indicated above.

Additionally, my first line supervisor and my department manager are in violation of 10 CFR 50.7 for their escalated program of harassment, intimidation, and retaliation that's directed towards me since bringing the concerns contained in this 10 CFR 2.206 petition to light in September 1994. It's very important for the NRC to realize, I first raised this allegation verbally in September 1994 to Mr. Paul Swetland of your agency, and to Mr. Thomas Martin in writing on October 5, 1994. The chain of events are listed below;

- On October 7, 1994 I was given a memorandum entitled absenteeism, dated October 6, 1994 (copy enclosed) by my first line supervisor and my department manager.
- On October 23, 1994, I provided my first line supervisor my detailed rebuttal to his above mentioned memorandum. (copy enclosed)
- On October 27, 1994, I had been unjustly chastised by my first line supervisor and my department manger about absenteeism (sick and personal time) in a meeting in my department manager's office. I truly believe, this action by my supervision is another example on how NU management harasses, intimidates, and retaliates, against those of us who raise safety concerns with outside agencies. (this concern was provided to Mr. Thomas Martin in a letter to him dated November 3, 1994)
- In a letter to my department manager dated November 22, 1994, I provided a detailed response to my management about the mendacious statements made by my management in their October 27, 1994 meeting. (copy enclosed)
- In a memorandum from my department manger dated December 14, 1994, (copy enclosed). Clearly indicated in the memo, my department manger has resorted to threatening me.

Clearly stated again my first line supervisor and my department manager are in severe violation of 10 CFR 50.7 for their escalated program of harassment, intimidation,



and retaliation that's directed towards me since bringing the concerns to light in September 1994 as stated above.

2. Inadequate compliance with the provisions of 10 CFR 50.5 Deliberate Misconduct Rule.

Clearly as outlined above, when the operations department was notified of the failed surveillance by me, the Unit 1 organization should have entered into a four day LCO as required by the technical specifications, section 4.9.B.1.a.

Quite clearly when a LCO wasn't entered by the Unit 1 organization the main concern was not public safety but to keep the unit on the line to produce revenues.

Accordingly, the Unit 1 organization is directly responsible for willfully violating the provisions of 10 CFR 50.5 as outlined above.

3. Inadequate procedure compliance.

About a week after the alleged incident I received copies of the 1992 & 1993 annual Emergency Gas Turbine Battery Surveillance's, from Mr. Paul Swetland of the NRC. After I reviewed the 1992 & 1993 annual Emergency Gas Turbine Battery Surveillance's I had realized there were a number of problems with them. In my October 5, 1994, letter to Mr. Thomas Martin of the NRC, I provided the 1992 & 1993 annual Emergency Gas Turbine Battery Surveillance's, with highlighted sections of the procedure violations. Listed below are the 1992 violations;

a) The surveillance failed, the Unit 1 organization should have enter into a four day LCO as required by the technical specifications, section 4.9.B.1.a., clearly the surveillance was completed on 9/25/92 and the operability justification letter wasn't done until 9/28/92, some three days later, yet an LCO wasn't entered into.

b) This surveillance was in nuclear records and the department head never signed for the approval as required by MF 779.5-1.

c) The schedule date wasn't indicated on MF 779.5-1.

Listed below are the 1993 violations;

a) The surveillance failed, the Unit 1 organization should have enter into a four day LCO as required by the technical specifications, section 4.9.B.1.a.

b) The prerequisites and the precautions on MF 779.5-1 were not initialed per step 6.1 of the procedure (SP 779.5) indicating the procedure wasn't followed or in my opinion even read.

c) Clearly indicated on MF 779.5-1 is the fact that the surveillance failed the acceptance criteria, yet SS in operations department wasn't notified and the applicable block on MF 779.5-1 wasn't signed off. Clearly a violation of step 6.20 of the procedure (SP 779.5) indicating the procedure wasn't followed or in my opinion even read.

d) As indicated on the "Technical Evaluation", dated September 24, 1993, the Engineer committed to change the procedure (SP 779.5) & the data sheet (MF 779.5-1) and to this date the procedure change is still not completed.

e) This surveillance was in nuclear records and all levels of maintenance management accepted the surveillance without correcting the above problems. Clearly this

is an indication that maintenance management isn't concerned with following procedures but just completing the task.

Furthermore, the procedure has not been followed since 1992 as far as I can tell. Clearly, steps 6.17 through 6.17.14 can not be performed per the procedure. I told my first line supervisor of this problem and he agreed with me the procedure needed to be changed and he told me to continue with the procedure and he said he would get the procedure changed, and to date it isn't changed. The battery terminals are provided with only one hole in the terminal and if you tried to add a jumper you would inop the battery without the proper work control and tagging control. Additionally, the emergency gas turbine would be inoperable without Operations knowledge.

I'm sure the NRC realizes the last three annual Emergency Gas Turbine Battery Surveillance's, have all failed the requirements of the procedure (SP 779.5) & the data sheet (MF 779.5-1). Yet, in my opinion the extremely serious violations as indicated above are not being handled appropriately by the NRC and Northeast Utilities. Quite clearly, It appears to me the only thing that has happened since I brought these legitimate concerns forward in September 1994 to Northeast Utilities and the NRC is an apparent cover-up by the both of you.

Additionally, I truly believe the emergency gas turbine is still inoperable and the NRC Region 1, is doing little or nothing to correct the problem. I truly believe the emergency gas turbine is still inoperable because of the battery problems that have been identified since 1992, and the NRC accepts the bogus explanations and evaluations of Northeast Utilities.

#### REQUESTED ACTION

Issue a severity level 2 violation and a severity level 3 violation against my department manager and my first line supervisor for their apparent violations of the provisions of 10 CFR 50.7 as outlined above.


Institute sanctions against my first line supervisor for engaging in deliberate misconduct regarding the above situations as outlined in 10 CFR 50.5, and Institute sanctions against Northeast Utilities and the Unit 1 organization for engaging in deliberate misconduct regarding the above situations as outlined in 10 CFR 50.5.

As verified by the Inspector General and the documented history of Whistleblower complaints, the program of harassment, intimation, retaliation, and discrimination practiced by Northeast Utilities against those of us raising legitimate safety concerns is alive and well, and clearly the chilling effect is alive and well at the Millstone Station.

Moreover, in my opinion this shows the neglect demonstrated by many NU managers and NU employees as stated above with regards to procedure non compliance.

In addition to the requested aforementioned sanctions, I request under the provisions of 10 CFR 50.5 that my first line supervisor be removed from his position until a satisfactory solution to the falsifying of nuclear documents by my first line supervisor problem can be achieved.

cc: Senator Joseph Lieberman  
Mr. David Williams - OIG  
Ernest C. Hadley, Esquire  
John R. Williams, Esquire

sincerely  
  
Anthony J. Ross  
(203) 442-4244



Anthony J. Ross  
Unit 1 Maintenance  
"A" Station Electrician  
Millstone Station



October 23, 1994  
"Confidential"

John Kiskunes  
Unit 1 Maintenance  
Maintenance Supervisor  
Millstone Station

RE: Your memo to me about absenteeism, dated October 6, 1994.

The purpose of this memorandum is to explain my absenteeism from work. In your memo, I am being attacked for uncontrolled absence during illness, and my personal time. For the record, I'm attending a program that was recommended by Mr. Bergh.

Moreover, as far as personal time goes, on several occasions in 1993, Mr. Bergh recommended the use of counseling in the company's Employee Assistance Program. Due to privacy considerations I elected counseling with a private psychiatrist. I am being chastised for personnel time usage for a program which was recommended by my management. This accounts for approximately 36 hours of the 46 hours mentioned in 1993, and approximately 54 hours of the 63 hours mentioned in 1994. My psychiatrist keeps no abnormal visiting hours. I have told you and Mr. Dick Peterson, more than once, that I have weekly counseling meetings with my psychiatrist.

Furthermore, as far as sicktime goes, I have provided you with doctor's notes, for 136 hours of the 158.5 hours mentioned in 1994, and for 56 hours of the 96.5 hours mentioned in 1993. Accordingly, I feel that ones illness is beyond ones control.

Clearly, as indicated in your memo, I do understand that I hold a "important position" in the department. I truly believe, if you were sincerely concerned about the "serious negative impact on the efficiency and effectiveness of our department" you would do something about the Work Control Group, only giving us enough work for approximately 2 or 3 hours daily. As you know, there are days, we constantly wait for work. I have spoken to several managers, including yourself, about the Work Control Group, and this situation is still the same.

Additionally, I have contacted the Medical Department, per your request, and as soon as I get on the day shift, I will see Dr. Graves. Also as I indicated above, I have my own doctor that I see on a weekly basis verses the EAP, I will continue to see him. There is one thing that I am hoping you could help me with, that I don't understand. On October 7, 1994 at 4:50am, I asked you what you and Neil wanted to see me for, this was before Neil

showed up, you told me that "you didn't know." Then at 5:00am Neil showed up and we proceeded to his office, Neil opened his desk and handed you the memo, that you gave me that day, and told you to sign it, you signed the memo and then made copies. That's what I don't understand. Is this your memo or Neil's? If the memo is not intended for my personnel file or disciplinary action, why did a copy go to V.G. Fleming - Nuclear Personnel?

My upcoming weekly doctors appointments, are as follows:

Thursday, October 27, 1994 at 3pm  
Thursday, November 3, 1994 at 3pm  
Thursday, November 10, 1994 at 2:30pm  
Wednesday, November 16, 1994 at 3:15pm  
Wednesday, November 23, 1994 at 3:45pm  
Wednesday, November 30, 1994 at 3pm

In closing, I'm sure you are well aware of the fact, that I have raised many undisputed Nuclear and Personnel Safety Concerns, since May of 1993, both with the company and the Nuclear Regulatory Commission. Clearly, as indicated in your memo, NU management is continuing to subject me to their program of harassment, intimidation, discrimination, and retaliation. Which is directly related to me raising Nuclear and Personnel Safety Concerns, as a protected employee, as outlined in 10 CFR 50.7.

Anthony J. Ross  
Unit 1, Maintenance  
Station Electrician "A"  
Millstone Station

"CONFIDENTIAL"  
November 22, 1994

Mr. Neil Bergh  
Unit 1, Maintenance Manager  
Millstone Station

RE: Your meeting with me and John Kiskunes on October 27, 1994 about absenteeism.

Dear Mr. Bergh,

Several issues were brought up in your meeting by you and John, and quite frankly the double talk by you and John, in your meeting, has me baffled.

In your meeting we discussed the letter I received, dated October 6, 1994, signed by Mr. Kiskunes. In the beginning of our meeting, John told me he composed the letter, later in our conversation John told me he had help composing the letter, and later in our conversation you indicated to me, you had written the letter. Clearly indicated by you, in your meeting, the letter was written by you, and John really wasn't sure if he wrote the letter or had input into writing the letter. Clearly the mendacious statements are baffling to me, when a simple question asked by me on who really wrote the letter, turns into a variety of answers by you and John.

Additionally, in your meeting, John told me, while I was assigned to Unit 2 from Monday, October 3, 1994 to Saturday, October 22, 1994, I asked for Saturday, October 8, 1994 off for no reason, and didn't tell Mike Pettengill. John also told me on Sunday, October 16, 1994, I asked for 2 hours off and took 3 hours. First of all, I did supply Mr. Kurt Anderson, Unit 2 First Line Supervisor, with a reason for not working overtime on Saturday, October 8, 1994, the reason was a family reunion in New Jersey, and Kurt did in fact excuse me from work on the day in question. Secondly, John was certainly correct, when he stated, I took 3 hours off on Sunday, October 16, 1994. I explained to Kurt, I would be around 2 hours late, but the fact of the matter is I had Kurt's permission. Accordingly, I am sure you are well aware the above mentioned time, is overtime. I can remember the morning of August 30, 1994, at your department meeting, you spoke about refused overtime. You explained to the entire department, refused overtime would not be held against you, and you further indicated, spending time with you family is very important. I truly believe you are continuing with your program of harassment, intimidation, and retaliation against me, for raising serious legitimate nuclear safety concerns as a protected employee. Clearly, you have a double standard one for protected employees and another for all other employees.

Furthermore, John had explained to me he didn't call Unit 2 checking up on me, John explained, Kurt Anderson had called him and told him about the hours I had missed because he was concerned. Accordingly, I will supply you with a little information, Kurt explained to me, Unit 1 management had called to check on me, and further explained he didn't call over to Unit 1. At that point in the meeting, both of you began to unjustly chastise and interrogate me about my lost time while on assignment at Unit 2. Your actions were clearly uncalled for considering the lost time both of you were chastising me for was overtime.

Moreover, I asked you twice in your meeting if I could speak with Virginia Fleming, to find out why a copy of the October 6, 1994 letter was sent to her, when clearly the letter was not intended for my personnel file or disciplinary action. I explained to you, I wanted to find out what Virginia did with the letter. You indicated to me, you would call Virginia today and setup an appointment. Well, for the record, the promise of an appointment to speak to Ms. Fleming, about the letter, just appears to be another promise that you never follow through on, like the many others you haven't followed through on over the years.

It is quite clear to me upper management is deeply concerned about the morale at Millstone, and winning the employees trust, and you continue to tear at that fabric and continue your daily pervasive program of harassment, intimidation, discrimination, and retaliation that's directed towards me, as a protected employee, who's main concern is truly the safety of co-workers and the public, while co-workers digest your program. Accordingly, the chilling effect you have created within the department is astounding.

In my opinion, the strong-arm tactics used by you gives the impression of a manager in deep and bitter disarray, the department palpable, ugly and unbridgeable. Such tactics gives the unwelcome results of stalemate and acrimony and the substitution of innuendo and opportunism for vision and fairness.

sincerely,  
  
Anthony J. Ross

cc: John R. Williams, Esquire



Northeast  
Utilities System

## Memo

December 14, 1994

TO: Anthony Ross  
Unit 1 Electrician 'A'

FROM: Neil G. Bergh  
Unit 1 Maintenance Manager

This is to confirm the substance of the meeting with you, John Kiskunes and me on Monday December 12, 1994 to discuss the importance of your returning a signed authorization so that the Company may obtain additional medical information from your physician regarding your repeated and recurring absences from work.

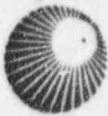
At the meeting, you were again requested to sign a medical authorization which would allow the Company's physician to contact your physician to determine the medical necessity for your continuing absences from work and your medical prognosis.

We appreciate that a genuine illness is something that is beyond the control of any individual, and the Company's procedures take this into consideration. However, if for any reason, the employee is absent from work for frequent or extended periods of time, such absences create serious problems for the Company. The Company's physician needs clarification of your medical status and the department needs to know when you can be counted on to work a full schedule on a regular basis. This lack of information is negatively affecting the Company's ability to manage and schedule the department's work requirements.

At our meeting on December 12, 1994, you were requested to return a signed medical authorization by Friday, December 16, 1994. Please be advised that if you do not return a signed authorization by close of business Friday, December 16, 1994, any future absences due to illness will be coded "unexcused absence--no pay", code 393 and appropriate disciplinary action will be taken.

cc: V. Fleming





# Memo

October 6, 1994  
CONFIDENTIAL

TO: Anthony Ross  
'A' Electrician

FROM: John J. Kiskunes  
Unit 1 Maintenance Supervisor

SUBJECT: Absenteeism

The purpose of this memorandum is to inform you about my concern for your attendance record. Your frequent absences from work are having a serious negative impact on the efficiency and effectiveness of our department. I am hopeful that you, as a long-term employee of the Company, can understand the problems associated with your frequent and extended absences which cannot continue in the important position that you hold. You should also understand that your absence is disruptive in that it requires reassignment of your work, changes to our normal schedules and a general loss of work flow continuity.

A review of your attendance record during 1992 indicates you were absent due to sickness for 96 hours or 12 days. During 1993 you were absent for 96.5 hours or 12 days. To date in 1994 you have been absent 158.5 hours or 19.8 days. Additionally your requests for personal time continue to increase and are further impacting your availability. You should be aware that the number of days you have been absent is far in excess of the company average. A chart which sets forth your attendance record by payroll code is shown below:

		1992	1993	1994
Payroll Code	Description	Hours		
073	First Day Sickness - Personal	24	56.5	38.5
074	Sickness - Personal	72	40	120
070	Personal Time	22	46	63
Total		118	142.5	221.5



While I realize that illness is often beyond any individual's control, you must understand that your previous and ongoing record of absenteeism falls short of our expectations. It is important that you take action to gain control over your medical situation so that you can report to work regularly.

Our Medical Department and our Employee Assistance Program are available to assist you and suggest avenues which might help you improve your medical situation and attendance.

For any future absence for medical reasons you will be required to bring verifiable medical evidence from your physician explaining the reason for your absence and verifying that you are able to return to work.

I sincerely hope you are able to resolve your absenteeism problem in a positive way. This memorandum is intended purely as counseling and will not become part of your personnel file. Likewise, it is not intended as a disciplinary action. If there is something additional that I can do to help you, please let me know.

cc: V.G. Fleming - Nuclear Personnel  
N.G. Bergh - Unit One Maintenance Manager