




UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

November 4, 1994

MEMORANDUM FOR: Thomas T. Martin, Regional Administrator  
Region I

FROM: James A. Fitzgerald, Acting Director   
Office of Investigations

SUBJECT: SALEM GENERATING STATION, UNITS 1 AND 2: ALLEGED  
HARASSMENT, INTIMIDATION, AND DISCRIMINATION (CASE  
NO. 1-93-021R)

Enclosed, for whatever action you deem appropriate, is the Office of Investigations (OI) Report of Investigation concerning the above matter.

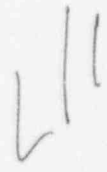
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Enclosure:  
Report w/exhibits

cc w/encl:  
J. Lieberman, OE  
L. Chandler, OGC

cc w/report  
H. Thompson, Jr., DEDS  
W. Russell, NRR  
B. Letts, OI:RI

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and Ms. Coles and himself that may have shortly followed Mr. Moeller's telephone conversation with Dr. Boston, notwithstanding that both Dr. Boston and Ms. Coles described Dr. Mack as very upset by this unique request.

One possible explanation for Dr. Mack's imprecise recollection is that his memory of this particular request is blurred by other discussions he had with Mr. Moeller. Dr. Mack recalls that "Mr. Moeller and I have had a lot of discussions about Fitness for Duty," especially "during the formulation of this program." (Mack Tr. 10-11). Dr. Mack believes that it is "entirely possible that we did cover the subject matter" of whether some mechanism in the program exists or could be created to test individuals for whom there would not be an adequate "for cause" basis. (Mack Tr. 11) Another possible explanation for Dr. Mack's lack of vivid recall is that he dismissed the request out of hand; it was a "ridiculous idea" (Mack Tr. 12) and Dr. Boston had already denied the request. Under these circumstances, it is possible that Dr. Mack simply gave it no further consideration and simply forgot about it.

**Mr. Moeller's denial of the allegation.** Mr. Moeller flatly denies that he requested someone to be tested under the auspices of the random testing program. (Moeller Tr. 21) He also denies speaking with Dr. Boston to request that an individual be selected for random testing. (Moeller Tr. 26) He denied making that request of anyone in the FFD Program. (Moeller Tr. 27) At the end of the first interview, Mr. Moeller was again flatly asked:

Q: . . . . Do you recall at any time within the last 12 or 18 months having asked Dr. Boston to select any particular individual for testing under the random program?

A: I have no knowledge of that; I do not remember ever asking Dr. Boston to select someone for random [testing].

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(Moeller Tr. 36)

Inasmuch as Mr. Moeller had acknowledged speaking to Dr. Mack on the general topic of whether a mechanism could be created for testing someone outside the "for cause" procedures, Mr. Moeller was asked whether he could recall ever having had a conversation like that with Dr. Boston. He stated that he could not remember such a conversation. He observed that he rarely communicates with Dr. Boston on a one-to-one basis and deals with her "almost exclusively" through SAC activities. (Moeller Tr. 31)

At his second interview, however, Mr. Moeller recalled that he might have had some contact with Dr. Boston in the context of his conversation with Dr. Mack regarding a means to select individuals for random testing. Mr. Moeller had "some rough memory of Dr. Boston being -- being involved at some point in this meeting." (Moeller II Tr. 5) Related to Mr. Moeller's theoretical discussion of testing options with Dr. Mack, Mr. Moeller acknowledged that it is "possible" that Dr. Boston was there and that "she could have been a party to this conversation. She could have been a party to . . . professional conversations on . . . how can we take information that's not . . . gold-plated, not real firm and act on it. It is possible that we could have had those kinds of conversations, yes." (Moeller II Tr. 19-20) Mr. Moeller explained that "Dr. Boston may have been there in the beginning discussion." But he recalls "that my further discussions of the exploring of options [for other than "for cause" testing of employees] did not have Dr. Boston there, that it was just Dr. Mack and myself." (Moeller II Tr. 9-10) Mr. Moeller summarized as follows:

I have no memory of ever going to Dr. Boston's office, for instance, to have a discussion on [some mechanism for selecting

4. Did a violation of site procedures or policies occur?

Despite the attempt, the available data and recollection of those involved establish that no violation of NAP-42(Q) occurred. There is no evidence that Mr. Rizzo's random testing, or that of any other individual, was procured by any means other than proper random selection procedures.

SUMMARY OF SIGNIFICANT FINDINGS

Based on its investigation, the investigative team summarizes its significant findings and conclusions as follows:

- It is the preponderance of the evidence that Mr. Peter Moeller, Manager - Site Protection, communicated with Dr. Martha Boston, a Staff Psychologist in the Medical Department, on the telephone several months ago to request that Mr. Rizzo or some other individual be included among those randomly selected for drugs/alcohol testing because Mr. Moeller apparently suspected the individual of drug use or alcohol abuse, but believed there was an insufficient basis for "for cause" testing.
- Dr. Boston refused to cooperate in any "for cause" testing of an individual under the auspices of the random selection program and immediately reported Mr. Moeller's request to Dr. Ronald Mack, the Director of Medicine - Nuclear.
- Dr. Mack appropriately supported Dr. Boston's actions, but failed to advise Mr. Moeller that his request was inappropriate or otherwise notify Ms. Maria Butz, General Manager - Nuclear Human Resources and Administrative Services, or Mr. George C. Connor, General Manager - Nuclear Support and Site Services, of Mr. Moeller's request.
- No violation of "for cause" or random testing procedures or policy actually resulted as a result of Mr. Moeller's request.
- There were general inquiries at an earlier time regarding the possibility of using the random testing selection in lieu of "for cause" testing, but these apparently resulted from an inadequate understanding of the program rather than an attempt to subvert it.