

**From:** <VMBLANCH@aol.com>  
**To:** WND2.WNP3(jaz),udl.internet3("JAZWOL@aol.com")  
**Date:** 6/7/96 7:42am  
**Subject:** Enforcement Policy

John:

Could you please have someone send me a copy of the NRC's latest Enforcement Policy. Snail or e-mail will do. I also need to know where in the NRC Reg's, the Statute of limitations is discussed and specified. You need to have someone look at the Scully records from DOL and see how NU continues to abuse, intimidate, harass and crucify employees. This will give you an indication as to how bad things really are and that the management is actually becoming more abusive of the employees than ever. Take a look at management influence on the NSCP and how they attempt to claim issues are not "safety concerns" and how they attempt to convince the DOL that this is the measuring stick. 10 CFR 50.7 clearly states that the belief of a safety issue is a protected activity.

I also request you review my transcript from 5/31/96 to John Hannon before you consider the restart of MP-3.

Give me a call ASAP

Paul cc: Scully  
Hadley

**CC:** udl.internet3("ECHadley@aol.com","HS-HARP@msn.com")...

From: <VMBLANCH@aol.com>  
To: WND2.WNP3(jnh,jaz),TWD1.TWP4(wjs,ljn1),WND1.WNP2(d...  
Date: 6/6/96 1:55pm  
Subject: From the Newswire

Ct: Utility Can't Silence Whistleblower With Settlement

By Michael Rapoport

NEW YORK (Dow Jones)--A Northeast Utilities (NU) unit can't try to silence a nuclear-plant whistleblower by offering him a litigation settlement that would have restricted his ability to speak out, a federal appeals court has ruled.

A three judge panel of the Second Circuit U.S. Court of Appeals last week upheld a ruling by Secretary of Labor Robert Reich that the company's Connecticut Light & Power unit violated the law in 1989 when it offered such a settlement to a whistleblower at the utility's Millstone nuclear power plant.

"This is a landmark victory for all whistleblowers and all employees and the public health and safety," said Stephen Kohn, chairman of the National Whistleblowers Center, a non-profit group that assists employees whistleblowers.

"I'm very, very thrilled," said Frederick Amore, the attorney for the whistleblower, John Delcore. "The court very cautiously and judiciously weighed the evidence."

Anthony Castagno, a Northeast Utilities spokesman, said the company was "disappointed" with the ruling. But he also said that it was "kind of a moot point." The case is based on events from the late 1980s; in 1993, the Nuclear Regulatory Commission issued a regulation specifically prohibiting settlement agreements that would restrict the ability of utility employees to speak out.

Labor Department representatives could not be reached for comment.

The court's ruling is based on a law applying specifically to the nuclear industry. But John Coffee, a Columbia University law professor, said the decision could also have implications for companies and whistleblowers in other industries that are closely regulated by the government, such as airlines and securities firms.

"There are probably other regulatory statutes that could be read similarly," Coffee said.

Northeast Utilities has faced complaints from a number of whistleblowers about nuclear-plant safety in recent years. The company has been fined twice since 1993 related to retaliation against whistleblowers, and earlier this week the NRC recommended a third fine. Millstone's reactors are currently shut down.

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From: <VMBLANCH@aol.com>  
To: WND2.WNP3(jnh,jaz),TWD1.TWP4(wjs,ljn1),WND1.WNP2(d...  
Date: 6/5/96 9:35am  
Subject: TOP HEADLINE 6/5/96

Regulators criticize handling of Millstone

By MICHAEL REMEZ and SUSAN E. KINSMAN

This ran in The Courant June 5, 1996

WASHINGTON -- Federal regulators responsible for overseeing Northeast Utilities' nuclear power operations now say the Millstone Point complex in Connecticut should have been put on the watch list of troubled plants much sooner than 1996 -- most likely after a serious valve leak in 1993.

The candid assessments were included in a report released Tuesday by the Nuclear Regulatory Commission's independent inspector general. The report looked into whether highly critical self-analyses done by the company in 1991 were kept secret, while other, more flattering reports were made public.

NU also learned Tuesday that it faces a \$100,000 fine based on accusations it discriminated against Adam P. McNiece of East Lyme, who raised nuclear safety questions at Millstone in 1994, while employed by Bartlett Nuclear Inc., an NU contractor.

It was the third fine levied by the NRC against NU since 1993 for harassment and intimidation of employees who raised nuclear safety issues. NU says it did not discriminate against McNiece, who was laid off from Millstone in December 1994 and rehired in March 1996.

The federal agency's inspector general found no violation of NRC rules in keeping the 1991 documents secret. But interviews with NRC officials at the local and national levels indicate the problem-plagued plants in Waterford were given chance after chance until being put on the watch list earlier this year.

The inspector general's office investigated a complaint from Ernest Hadley, the Massachusetts lawyer who has represented several Millstone whistle-blowers.

Hadley complained that the agency and the utility conspired in 1991 to keep damaging self-assessments done by NU out of the agency's public records.

But the inspector general found that the company has wide latitude under NRC regulations to determine what should or should not be made public. The company must, however, make a formal request to keep the documents secret.

Hadley said that was "the stupidest" regulation he had ever heard of. "But," he said, "it's entirely consistent with the NRC's history of turning over of its regulatory role to the licensees, not only with regard to public safety but also with the public's right to know."

Anthony Castagno, an NU spokesman, said the company wanted the 1991 reports kept confidential because they included specific names and personal information.

Castagno said NU made the findings public and announced a course of actions to respond to recurring operational problems. Part of that was creation of what was known as the Performance Enhancement Program in 1992.

"In hindsight, it is clear the enhancement program wasn't sufficient to

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resolve our problems," Castagno said.

The inspector general's analysis shows that NRC officials repeatedly gave the company the benefit of the doubt that improvement programs would turn Millstone operations around.

They did not, however. All three units are now shut down and the NRC says they cannot be restarted until NU demonstrates each can operate in compliance with its license. The shutdowns are costing the company millions of dollars each week in replacement power costs alone.

The report describes how the agency's senior managers discussed operating and safety problems at the Millstone plants at regular meetings from 1991 until the watch list designation this year. During those years, they noted "a historic emphasis on cost savings versus performance."

The investigators concluded that periodic company initiatives and management restructurings repeatedly delayed actions by the regulators. "Moreover, NU's sporadic improvements in some areas of NRC concern neutralized the staff's willingness to take prompt aggressive action," they wrote.

NRC records depict declining trends in Millstone operations starting in 1989.

The problems -- most often stemming from too little attention to license requirements and ineffective management -- crop up repeatedly.

Several officials interviewed by the inspector general's office said the extended efforts to repair a leaky steam valve in the summer of 1993 should have been the last straw. In that case, the company spent three months making repairs to a valve in Millstone 2. They hoped to avoid a costly shutdown to replace the defective parts.

Then, on Aug. 5, 1993, as the repairs continued, one of four bolts holding the valve in place broke, the leak intensified and managers were forced to make an emergency shutdown. If the valve had ruptured, 500-degree water would have burst out at 1,000 gallons a minute. If the reactor vessel started to drain, NU faced the possibility of a meltdown in the radioactive core.

That incident, an unnamed plant inspector told investigators, should have pushed the agency to add Millstone to its troubled plant list.

"He noted that this event was not only safety significant, but it provided the NRC with meaningful insight into NU management's performance," the report says. "He added that NU management's approach allowed the [incident] to occur, and the event was an example of NU's disregard for safety."

Other officials, up the line to the executive director for operations who reports directly to the commissioners, offered similar assessments. Unnamed but identified by his title, James M. Taylor, the executive director, said the agency did take the unusual step of meeting with the NU board of directors in early 1995 about problems at the Millstone plants.

Thomas T. Martin, the regional administrator who is being moved to a desk job in headquarters in August, also agreed in hindsight that the plants should have been put on the watch list earlier. Also unnamed, but identifiable by his title, Martin said that senior managers thought until January that NU was making improvements.

Nonsense, said Hadley, who noted that the study shows senior managers were well-informed of the problems at the Waterford complex.

"This isn't asleep at the switch anymore. We've got them conscious behind the wheel. They've moved from an agency that is neglectful to an agency knowingly condoning what is going on," Hadley said.

Commenting on speculation that Martin was being transferred because of his role in NU's troubles, Hadley said, "If someone wants to effect some change,

it's going to take more than giving Tim Martin a lateral transfer. Some people should be standing in the unemployment line right now."

Connecticut lawmakers said they were troubled by the findings.

Rep. Sam Gejdenson, D-2nd District, said the study raises questions of "whether the NRC can develop operating systems that transform them from nuclear boosters to regulators."

Sen. Joseph I. Lieberman, D-Conn., said the study shows fundamental problems in the agency's handling of its mission. He said he earlier asked the General Accounting Office, the investigative arm of Congress, to review the agency's "entire approach to inspections and performance evaluation."

In the McNiece case, the NRC also cited Bartlett Nuclear for discriminating against an employee engaged in an activity protected by federal law, but no fine was imposed because the contractor is not a nuclear licensee regulated by the agency.

In a complaint filed with the Department of Labor in May 1995, McNiece said that NU and Bartlett had "acted in concert" to keep him from working as a senior health physics technician in radiation protection after he asked questions about the day-to-day operations of the nuclear power facilities.

"I became a persona non grata by simply asking such things as, 'What's up with this primary coolant in the environmental sump? Could this be a release pathway?' " McNiece said.

"The response to these questions was a growing pattern of harassment and intimidation by both management and my peers, culminating in early layoff in December 1994, ostensibly for lack of work," McNiece said in his complaint to Labor Secretary Robert B. Reich.

McNiece said he had worked at Millstone 2 for four years straight. "My work effort kept me on board through outage and non-outage periods, even when there were very few contractors on site. Now, after questioning business as usual, I was the first to be laid off," he said.

After an investigation, the Department of Labor found in McNiece's favor in July 1995.

It ordered the utility to reinstate McNiece to his former position, to pay him wages back to December 1994, revise his performance evaluation, issue him a public apology and pay attorneys' fees and punitive damages of \$100,000.

After a formal hearing, a labor department administrative law judge found in December 1995 that NU and Bartlett had discriminated against McNiece. The company denied the accusation and filed a motion for reconsideration. The judge's recommended decision is being reviewed by the secretary of labor.

"We did ask the Department of Labor for another hearing before another administrative law judge because we disagreed with the original administrative law judge. But we will pay the fine if it is ordered after final review," said Deborah Beauchamp, an NU spokeswoman.

McNiece was rehired at Millstone in March 1996.

Tuesday, the NRC said it adopted the findings of the law judge and concluded the utility violated federal law.