

CASE No. 2-94-018

United States
Nuclear Regulatory Commission



Report of Investigation

ST. LUCIE NUCLEAR PLANT:

ALLEGED DISCRIMINATION AGAINST WELDING SUPERVISOR
FOR INSISTING ON CORRECT WORK PRACTICES

Office of Investigations

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Title: ST. LUCIE NUCLEAR PLANT:

ALLEGED DISCRIMINATION AGAINST WELDING SUPERVISOR FOR INSISTING ON
CORRECT WORK PRACTICES

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Florida Power and Light Company
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SYNOPSIS

The U.S. Nuclear Regulatory Commission, Region II, Office of Investigations initiated this investigation on May 31, 1994, to determine if an individual was the victim of discrimination, intimidation, or harassment due to refusing to compromise welding code requirements.

Based on evidence developed during this investigation, the allegation was not substantiated.

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DETAILS OF INVESTIGATION

Applicable Regulations

Allegation: Alleged Employee Discrimination

10 CFR § 50.5: Deliberate misconduct

10 CFR § 50.7: Employee protection

Purpose of Investigation

This investigation was initiated by the U.S. Nuclear Regulatory Commission (NRC), Region II (RII), Office of Investigations (OI), on May 31, 1994, to determine if Norman J. HALLENBECK, former St. Lucie Nuclear Plant (SLNP) welding supervisor, was the victim of discrimination, intimidation, and harassment due to stopping welding work on an instrument tubing line because the procedure needed to be amended. Following this incident, HALLENBECK received a reduced performance appraisal and was removed from his supervisory position on May 16, 1994 (Exhibit 1).

Background

On May 20, 1994, HALLENBECK contacted NRC RII and alleged that his supervisor, Ernest O. POARCH, intimidated and harassed him after he stopped welding work on the turbine deck DEH system during the spring 1994 outage. HALLENBECK alleged that during the fall 1993 outage, POARCH intimidated and harassed him after he delayed the work schedule by having the Bergen-Patterson support reworked due to an unacceptable weld (Exhibit 2).

Interview of Allegor

On August 23, 1994, HALLENBECK was interviewed and provided the following information to OI (Exhibit 3). HALLENBECK became a permanent welding supervisor for Florida Power and Light Company (FP&L) in August 1990 and has been a welding supervisor most of his 25 years in the nuclear industry. HALLENBECK resigned from FP&L on May 18, 1994.

HALLENBECK held up the work schedule because of an unacceptable weld on the Bergen-Patterson support for the Component Cooling Water system, a safety-related system. Specifically, a contract supervisor reported to HALLENBECK that the root opening for a fillet weld, prior to welding, was 3/8" all around. This root opening was in violation of the welding manual requirements and resulted in a "gorilla weld" or weld with improper profile. HALLENBECK ordered the weld to be removed, which revealed the 3/8" opening resulted from the wrong Bergen-Patterson parts. The Bergen support was replaced and rewelded. POARCH became very upset with HALLENBECK's actions and tried to convince everyone to accept the weld as it was.

According to HALLENBECK, POARCH made "malicious" remarks and exhibited facial expressions to show he was upset. HALLENBECK believes his decision was

correct and he "paid the price" for speaking up. Additionally, days following this incident, POARCH would not speak to HALLENBECK and purposely excluded him from scheduled meetings. HALLENBECK stated he was not notified of department meetings; however, concedes he did not attend all of the 2:00 p.m., department meetings due to a critical job or forgetting.

HALLENBECK stopped welding work on an instrument line (DEH system on turbine deck) because the welding procedure required amendment before continuing work. Specifically, on March 9, 1994, a welding engineer expressed concerns to HALLENBECK regarding the inadequacy of the welding procedure on the DEH system as the minimum amperage specified was too high for the thin tubing. (HALLENBECK chose not to disclose the name of the welding engineer.) HALLENBECK informed POARCH of the problem and that correcting with an amendment would take about 2 hours. In response, POARCH asked HALLENBECK who else knew about the problem and if no one else but HALLENBECK, the welder, and the welding engineer knew, to keep welding while the procedure was being revised. HALLENBECK informed POARCH the welding had to be placed on hold for the procedure amendment and POARCH became angry.

Subsequent to this incident, POARCH harassed HALLENBECK about not attending meetings, began giving HALLENBECK's employees directions, and accused HALLENBECK of not keeping abreast of work activities. HALLENBECK feels this harassment resulted from his not doing what POARCH wanted.

Following an incident on April 12, 1994, involving a confrontation with Welding Engineer, Dale H. JACOBS, HALLENBECK considered resigning as he felt he had lost control of the Welding Department. Additional details regarding this portion of the interview are summarized in Exhibit 3, Attachment 2, pp. 6-7.

HALLENBECK stated he had always received good evaluations until POARCH began supervising him in early 1993 (Exhibit 3, Attachment 2, pp. 7-8). HALLENBECK voiced concerns about POARCH and Herman L. FAGLEY, Construction Services Site Manager, to FP&L Human Resources Manager, Andy DeSOIZA on November 5, 1993. He also met with the Employee Assistance Program Counselor, Geri SMITH, on November 11 and 18, 1993, who referred him to his family physician for treatment [REDACTED] (Exhibit 3, Attachment 2, pp. 3-4). On May 11, 1994, HALLENBECK reported to the site medical facility for nausea and felt that he had been set up and his career ruined because he would not participate in "shady things" (Exhibit 3, Attachment 2, p. 8).

On May 17, 1994, POARCH issued a letter to HALLENBECK, relieving him of his responsibilities as welding supervisor and placing JACOBS in HALLENBECK's place (Exhibit 3, Attachment 5). HALLENBECK stated this action devastated him. POARCH assigned HALLENBECK to "debugging" a new computer program even though POARCH was aware HALLENBECK knew nothing about programming.

HALLENBECK had gone through the chain of command and nothing changed. Due to the continued intimidation and harassment by POARCH, he was not sleeping, was under a great deal of stress, and his home life was deteriorating. HALLENBECK opined POARCH did not like him telling POARCH the code specifications and requirements. Additionally, when costs or production was a factor in HALLENBECK's speaking up, POARCH would scream, yell, and talk to him "like he

was a dog." HALLENBECK admitted he and POARCH had a personality conflict and that POARCH had a "John Wayne" ego.

AGENT'S NOTE: HALLENBECK documented what he perceived to be intimidation and harassment and provided a chronology of events dated June 16, 1993, to May 18, 1994 (Exhibit 3, Attachments 1 and 2).

On May 18, 1994, HALLENBECK reported back to the FP&L Employee Assistance Program and retained an attorney who advised him to report his concerns to the NRC. On June 2, 1994, HALLENBECK reported his concerns to the FP&L Nuclear Safety Speakout Program. He initially did not report his concerns to them for fear of additional harassment from POARCH (Exhibit 3, Attachment 6). Through negotiations with FP&L, HALLENBECK and his attorney reached a settlement agreement on July 12, 1994 (Exhibit 3, Attachment 7). HALLENBECK agreed to resign and accepted 4 months salary from FP&L. HALLENBECK chose to resign "to get out and be done with it."

In conclusion, HALLENBECK stated that POARCH will deny everything and it would be his word against POARCH.

Coordination with Regional Counsel and Staff

On September 27, 1994, Regional Counsel, Carolyn F. EVANS, determined that HALLENBECK's allegation that he was intimidated and harassed, and was the victim of adverse action because he refused to ignore safety or work procedures, is considered protected activity. On October 4, 1994, RII Regional Administrator, Stewart D. EBNETER, assigned this investigation a "normal" priority.

Summary

The following individuals were interviewed by OI and their testimony is summarized below. Additional details can be obtained through perusal of the attached testimony and documentation exhibits.

<u>NAME</u>	<u>POSITION</u>	<u>DATE INTERVIEW</u>
Andy DeSOIZA	Human Resources Manager SLNP	January 18, 1995
Herman L. FAGLEY	Construction Services Site Manager SLNP	January 18, 1995
Dale H. JACOBS	Acting Welding Supervisor Construction Services, SLNP	January 18, 1995
Jerry E. KUNKEL	Welding Engineer Construction Services, SLNP	January 18, 1995
Ernest O. POARCH	Area Construction Supervisor SLNP	January 18, 1995

Evidence

Interview of POARCH (Exhibit 4)

During an OI transcribed interview, POARCH provided the following information. In reference to the Bergen-Patterson support incident, POARCH stated he remembered there was a problem with that weld and recalls a discrepancy report was written. POARCH claimed he did not remember getting upset or angry with HALLENBECK but he was probably upset that there was a problem.

POARCH admitted having confrontations with HALLENBECK, but not over that incident. One confrontation involved a meeting which HALLENBECK was to attend and he failed to show. When POARCH asked HALLENBECK about it he said, "why are you always harassing me, buddy." POARCH answered that he was not harassing him, but asking a legitimate question. Another incident involved a comment from POARCH to HALLENBECK about his group not having anything to do since welding was slow. HALLENBECK told POARCH he was offended and POARCH apologized for the comment and said he was joking. POARCH denied excluding HALLENBECK from meetings and stated he had to remind him to attend meetings.

In reference to the DEH system welding procedure, POARCH stated the joints were radiographed, cut, and repaired. POARCH was upset that the work had to be redone; he was not upset at HALLENBECK. POARCH does not recall the procedure needing amendment. POARCH also denied telling HALLENBECK to keep welding while the procedure was amended. POARCH also denied circumventing HALLENBECK's authority by having HALLENBECK's subordinates report directly to POARCH.

POARCH recalls HALLENBECK wanted to report directly to FAGLEY, not POARCH. When POARCH came back from vacation in April 1994, he heard that HALLENBECK was harassing JACOBS and KUNKEL and attempted to fire KUNKEL. At this point, POARCH told FAGLEY he had to do something about HALLENBECK harassing KUNKEL and JACOBS.

POARCH talked with DeSOIZA about the harassment and he initially was going to look for another position for HALLENBECK, yet could not find one which matched his experience. HALLENBECK told POARCH he did not feel effective as a supervisor as his employees hated him, so POARCH assigned him to a project involving a computerized welding program; this was not a demotion. HALLENBECK was reassigned because his employees, superiors, and the Quality Control (QC) people were complaining about him.

During a performance review discussion on May 10, 1994, POARCH discussed supervisory skills training with HALLENBECK who told him he did not need it. In reference to HALLENBECK's performance evaluations, POARCH stated he received a better than average rating. Other employees complained about receiving lower ratings when management changed and POARCH told them he was starting with a more realistic base line. HALLENBECK never wanted to discuss his performance evaluations. The 1994-1995 evaluation was completed after HALLENBECK's employees complained to Human Resources about him and POARCH gave him a lower than average rating. Specific complaints about HALLENBECK and employee relations came from the QC employees who told POARCH he had to do

something about that "nut." QC said when they refused to do HALLENBECK's work, he threatened to "go to the NRC." POARCH denied screaming or yelling at HALLENBECK or talking to him like he was a dog.

AGENT'S NOTE: HALLENBECK's chronology of events was referenced during this interview and POARCH was allowed to respond to some of HALLENBECK's comments about intimidating and harassing actions taken by POARCH (Exhibit 3 and Exhibit 4, pp. 63-75).

POARCH first learned that HALLENBECK had voiced some intimidation and harassment concerns about him when he visited DeSOIZA regarding concerns about HALLENBECK on November 22, 1993. POARCH concluded that the personnel actions taken regarding HALLENBECK were not due to HALLENBECK voicing safety concerns and were not done to intimidate or harass him. POARCH stated that management wanted to make HALLENBECK a more useful part of the organization and wanted him to get along with people. POARCH added that HALLENBECK could have been a valuable member of the team. HALLENBECK was very familiar with the welding codes and manual and his technical abilities were never questioned.

Interview of FAGLEY (Exhibit 5)

During an OI transcribed interview, FAGLEY provided the following information.

FAGLEY provided similar and consistent testimony as POARCH with the exception of the following. Sometime in August or September 1992, HALLENBECK told FAGLEY that POARCH degraded him and he couldn't work for him, did not respect him, and wanted to report directly to FAGLEY. FAGLEY told him he had to report to POARCH. FAGLEY informed HALLENBECK the problems needed to be worked out and they met with DeSOIZA.

FAGLEY told HALLENBECK he did not have to like someone to work with them and asked HALLENBECK for specific information regarding intimidation and harassment by POARCH which HALLENBECK could not provide. When HALLENBECK told FAGLEY he was going to report concerns to the NRC, Human Resources, and the FP&L Nuclear Safety Speakout Program, FAGLEY told him to do what he felt he needed to do, but he was blowing it all out of proportion. FAGLEY tried to obtain more information about examples of harassment and HALLENBECK told him he had never been talked to like POARCH talked to him.

In reference to the Bergen-Patterson support FAGLEY stated, POARCH said it's been like that for all these years, why can't we put it back together. FAGLEY said he and POARCH knew it was against code but it had to be "fixed." Neither he nor POARCH was upset with HALLENBECK; they were upset that it had to be torn apart.

In reference to the DEH system and procedure amendment, FAGLEY stated HALLENBECK knew before the outage that the procedure needed to be amended, and he should have brought it up then. FAGLEY and POARCH were upset that the work had to be stopped and POARCH may have asked HALLENBECK why he did not mention the amendment earlier.

FAGLEY stated HALLENBECK's reassignment to debugging the welding computer program was not reprisal for voicing concerns. HALLENBECK expressed he no

longer wanted to supervise, so he was reassigned. HALLENBECK was not verbally notified because he was on sick leave. FAGLEY has never had anyone else complain about POARCH. Some of FAGLEY's peers, however, complained about HALLENBECK not cooperating.

FAGLEY concluded that HALLENBECK was not treated any differently than any other employees in the Construction Services Department.

Interview of JACOBS (Exhibit 6)

During an OI transcribed interview, JACOBS provided the following testimony. JACOBS was supervised by HALLENBECK and is presently acting in HALLENBECK's old position as welding superintendent.

JACOBS began working under HALLENBECK when HALLENBECK became a permanent welding supervisor and, in the beginning, they had a good working relationship. JACOBS opined that HALLENBECK is very insecure and one had to be careful about how they disagreed with him and HALLENBECK felt people were always against him. HALLENBECK disliked people that disagreed with him.

JACOBS feels HALLENBECK intimidated and harassed KUNKEL. At one point, HALLENBECK assigned KUNKEL to clerical work and tried to fire him. JACOBS has never witnessed or heard about any incidents in which POARCH or FAGLEY intimidated HALLENBECK.

JACOBS also provided details surrounding the confrontation between HALLENBECK and himself and when he talked to FAGLEY about HALLENBECK's treatment of KUNKEL (Exhibit 6, pp. 26-32). JACOBS opined HALLENBECK's motivation for voicing the intimidation and harassment concerns was to retire early and get a good retirement package from FP&L. HALLENBECK wanted to resign in July 1994 as soon as his wife was vested at FP&L. JACOBS never witnessed POARCH compromising welding code requirements or taking shortcuts or overlooking safety issues.

JACOBS provided the same information as POARCH and FAGLEY regarding the Bergen-Patterson support and DEH system. Additional general information provided by JACOBS was also similar and consistent.

Interview of KUNKEL (Exhibit 7)

During an OI transcribed interview, KUNKEL provided the following information. KUNKEL worked for HALLENBECK for about 3 years and stated HALLENBECK was hard to please and KUNKEL did not know what was expected of him. KUNKEL was not familiar with anything related to the Bergen-Patterson support or DEH system and problems.

KUNKEL felt intimidated by HALLENBECK because of the demeaning way he talked to him and KUNKEL was afraid to ask questions. KUNKEL did not know how to interact with HALLENBECK and believed that HALLENBECK was paranoid. KUNKEL opined that HALLENBECK felt out of control if he could not belittle you. KUNKEL stated HALLENBECK harassed him; no one harassed HALLENBECK. KUNKEL never documented incidents of harassment by HALLENBECK because DeSOIZA advised

him that was not necessary. KUNKEL added, "...some of these things I'd just rather forget." (Exhibit 7, p. 38)

Additional details surrounding KUNKEL's concerns about HALLENBECK are detailed in DeSOIZA's statement.

Interview of DeSOIZA (Exhibit 8)

During an OI transcribed interview, DeSOIZA provided the following information. HALLENBECK first visited DeSOIZA on November 5, 1993, regarding problems he was having with POARCH. DeSOIZA referenced a chronology of events prepared by his assistant, Edward O'NEIL (Exhibit 9). HALLENBECK felt that neither POARCH nor FAGLEY understood his work and could not provide the supervision he needed. HALLENBECK acknowledged he had a personality conflict with POARCH. During various meetings that DeSOIZA conducted with HALLENBECK, POARCH, and FAGLEY, DeSOIZA observed that a lack of trust and communication was apparent.

In January and April 1994, when KUNKEL and JACOBS complained about HALLENBECK's intimidation and harassment, DeSOIZA realized HALLENBECK had a lot of technical strengths but had weak supervisory skills. At this point, DeSOIZA realized some action had to be taken to resolve the issues, so he, FAGLEY, and POARCH addressed some organizational changes which could be made in order to retain HALLENBECK, yet remove him from supervisory duties. Several options were considered, one being a severance package since the department was downsizing. Earlier in November 1993 when HALLENBECK visited DeSOIZA about problems, HALLENBECK mentioned he would be interested in a severance package.

DeSOIZA noticed too that HALLENBECK's performance appraisals did not reflect problems with HALLENBECK, so no discipline against HALLENBECK could be considered. It appears POARCH and FAGLEY verbally noted the problems. POARCH and FAGLEY justified this by saying their shop was like a family and they conducted business less formally than Human Resources.

On May 10, 1994, DeSOIZA recommended an interim performance review. This is when everything "exploded," because HALLENBECK considered this review as part of a conspiracy to terminate him. DeSOIZA was disappointed that he was not allowed to review the appraisal until after it was given to HALLENBECK. In reference to the appraisal (Exhibit 10), DeSOIZA would have made changes. Specifically, DeSOIZA would have focused on the KRAs (key responsibility areas) to document expectations, strengths, and weaknesses and not communicate a "message of total incompetence."

DeSOIZA met with HALLENBECK on July 3, 1994, to handle details of his resignation. DeSOIZA first became aware that HALLENBECK had voiced intimidation and harassment concerns when he heard from HALLENBECK's attorney on May 26, 1994. During HALLENBECK's first meeting with DeSOIZA on November 5, 1993, HALLENBECK only discussed management and personnel issues.

DeSOIZA opined that HALLENBECK was not intimidated or harassed by POARCH. They both contributed to the problems. HALLENBECK appeared very insecure and

stressed and POARCH's management style and lack of communication skills were also at fault. POARCH allowed HALLENBECK's performance problems to continue too long before he took action.

Review of Documents

On June 2, 1994, HALLENBECK voiced concerns to the SLNP Nuclear Safety Speakout (NSS) Program. NSS conducted a thorough investigation, including numerous interviews and a review of HALLENBECK's performance appraisals (Exhibit 11). A number of the concerns were the same concerns HALLENBECK reported to the NRC. Some of the same people were interviewed by NRC OI and NSS who provided similar and consistent testimony. NSS was unable to substantiate any of HALLENBECK's concerns and informed him of this on July 11, 1994.

Conclusion

The evidence developed during this investigation did not substantiate the allegation that HALLENBECK was the victim of discrimination, intimidation, or harassment for refusing to compromise welding code requirements.

LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	OI, Region II Investigation Status Record, dated May 31, 1994 with attached Allegation Review Panel Minutes, dated May 26, 1994.
2	NRC Allegation Report, dated May 25, 1994.
3	Report of Interview with HALLENBECK, dated August 25, 1994, with attachments.
4	Transcript of Interview of POARCH, dated January 18, 1995.
5	Transcript of Interview of FAGLEY, dated January 18, 1995.
6	Transcript of Interview of JACOBS, dated January 18, 1995.
7	Transcript of Interview of KUNKEL, dated January 18, 1995.
8	Transcript of Interview of DeSOIZA, dated January 18, 1995.
9	HALLENBECK Chronological History, prepared by O'NEIL, dated June 7, 1994.
10	FP&L Performance Planning and Review Worksheet, review period from January 1, 1994 to January 1, 1995 (Performance Appraisal).
11	FP&L Nuclear Safety Speakout Investigation Package with Cover Letter from John K. LUCHKA, dated December 27, 1994.