

October 19, 1998

Carolina Power & Light Company
ATTN: Mr. J. H. Donahue
Acting Vice President - Harris Plant
Shearon Harris Nuclear Power Plant
P. O. Box 165, Mail Code: Zone 1
New Hill, NC 27562-0165

SUBJECT: DEPARTMENT OF LABOR (DOL) CASE NO. 98-ERA-31
(MICKEY R. HAMBY v. CAROLINA POWER & LIGHT, INC.)

Dear Mr. Donahue:

On April 8, 1998, the NRC's Office of Investigation (OI) initiated an investigation to determine if Mickey R. Hamby was subject to illegal discrimination by management at the Shearon Harris Nuclear Power Plant (HNP) for engaging in an activity protected under Section 211 of the Energy Reorganization Act of 1974, as amended. The OI investigation, documented in OI Report No. 2-1998-012, was completed on July 29, 1998. OI concluded that the evidence developed in the investigation did not substantiate the allegation that HNP management illegally discriminated against Mr. Hamby for engaging in a protected activity.

On December 11, 1997, the U.S. Department of Labor's (DOL) OSHA Division in Washington, D.C. received a complaint filed by Mr. Hamby, a former employee of Carolina Power & Light's Shearon Harris Nuclear Power Plant. On May 26, 1998, the Assistant Area Director issued a decision in this case and concluded that discrimination was not a factor in the actions comprising Mr. Hamby's complaint. Mr. Hamby subsequently appealed the decision and action is pending before a DOL Administrative Law Judge (ALJ). The NRC staff will hold its judgement on whether or not enforcement action is warranted in this matter until after an adjudicatory decision by a DOL ALJ.

We are providing the parties involved in the DOL hearing the results of the OI investigation. A copy of the synopsis of the OI report is enclosed. You should note that final NRC documents, including the final OI report, may be made available to the public under the Freedom of Information Act (FOIA) subject to redaction of information provided under FOIA. Requests under the FOIA should be made in accordance with 10 CFR 9.23, Requests for Records.

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Should you have any questions regarding this letter, please feel free to contact me at 404-562-4421.

Sincerely,

original signed by ATB

Anne T. Boland, Director
Enforcement and Investigations
Coordination Staff

Enclosure: Synopsis of OI Report No. 2-1998-012

cc w/encl: Mickey R. Hamby
[address withheld per
10 CFR 2.790]

Distribution w/o encl:

- J. Lieberman, OE
- J. Goldberg, OGC
- C. Evans, RII
- B. Summers, OE
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