



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET SW SUITE 23T85
ATLANTA, GEORGIA 30303-8931

July 9, 2001

Ms. Lynne Bernabei, Esquire
Bernabei & Katz, PLLC
1773 T Street, N.W.
Washington, D.C. 20009-7139

SUBJECT: U.S. DEPARTMENT OF LABOR CASE NO. 1997-ERA-0053 (EA-98-327)

Dear Ms. Bernabei:

This is to acknowledge receipt of your July 2, 2001, letter to Loren R. Plisco regarding the subject U.S. Department of Labor (DOL) case, and the NRC's June 18, 2001, letter to the Tennessee Valley Authority (TVA) identifying two apparent violations of 10 CFR 50.7, "Employee Protection," associated with this case. I am responding on his behalf. In your letter, you described two specific issues which you believe should be taken into account by the NRC during its deliberations regarding enforcement action against TVA in this case. In summary, these issues involve continuing harassment of Mr. Overall for engaging in protected activity, and TVA's practices regarding managers who have been found by DOL to have discriminated against nuclear whistleblowers in the past.

As our June 18, 2001, letter indicates, the NRC has initiated the enforcement process in this case. Currently, a written response is pending from TVA on the apparent violations. Your July 2, 2001, letter will be considered during our enforcement deliberations in this matter which will be conducted in accordance with "The General Statement of Policy and Procedure for NRC Enforcement Actions - May 1, 2000," NUREG-1600, as amended on December 12, 2000.

We are aware that you are representing Mr. Overall in DOL case 1999-ERA-0025; however, this office has not been formally notified that you are representing him in matters before the NRC associated with DOL case 1997-ERA-0053. Therefore, we request that Mr. Overall provide us a written statement authorizing you to communicate with us on his behalf in this matter. In addition, it is our understanding that your July 2, 2001, letter, was made public through the Associated Press. However, before the NRC makes the letter and its enclosures publicly available, we are requesting authorization for release from Mr. Overall. The primary reason for our request is that certain personal statements made by Mr. Overall in DOL case 1999-ERA-0025, which are not currently publicly available through DOL, were included with the letter.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter may be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room). However, the NRC may delay making a copy of this letter publicly available until an enforcement decision has been made.

L. Bernabei

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If you have any questions regarding this letter, please feel free to contact me at 404-562-4500 or Anne T. Boland, Region II Enforcement Officer, at 404-562-4421.

Sincerely,

/RA

Victor M. McCree, Deputy Director
Division of Reactor Projects

L. Bernabei

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