



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

October 13, 1995

Mr. O. J. Zeringue  
Senior Vice President, Nuclear Operations  
Watts Bar Nuclear Plant  
P. O. Box 2000  
Spring City, TN 37381

SUBJECT: WATTS BAR NUCLEAR PLANT - 95-ERA-20  
ROBERT O. KLOCK V. TVA & UNITED ENERGY SERVICES CORPORATION  
(TAC NO. M72494)

We recently received a copy of a Department of Labor (DOL) Administrative Law Judge's (ALJ) Recommended Decision and Order (RDO) in the subject proceeding in which the ALJ found that the former the TVA Startup Manager (current Assistant Plant Manager) at Watts Bar discriminated against a contract startup engineer in violation of section 211 of the Energy Reorganization Act of 1974, as amended (ERA). The ALJ's decision was issued on September 29, 1995. We also received your letter of October 12, 1995, advising the NRC of the ALJ's RDO, of TVA's position on that RDO and of the actions TVA has taken to address the findings of the RDO.

The NRC had earlier inquired about your actions in this matter in a "chilling effect letter" dated February 27, 1995. In your April 5, 1995 response to that letter, you indicated your disagreement with the DOL Wage and Hour Division's finding of discrimination. We are also aware of the fact that the TVA Office of Inspector General investigated the matter and concluded that the evidence did not show that TVA terminated the startup engineer because he reported safety concerns. In our view, the ALJ's decision constitutes new information and appears to be a well-supported adjudicatory determination that (1) TVA, through the actions of the Startup Manager at Watts Bar, improperly terminated the startup engineer because he engaged in activities protected by the ERA, and (2) TVA's proffered reasons for terminating the startup engineer are "pretextual".

From our review of the ALJ's determination in this case and TVA's October 12, 1995 letter on the matter, and despite the survey results referenced in the October 12 letter, we have concerns that TVA management's actions in this matter may have had a chilling effect in discouraging other TVA and contractor employees from raising perceived safety concerns as the Watts Bar facility proceeds toward final licensing. To address the potential chilling effect and to allow us to determine its affect on licensing considerations for Watts Bar, you are requested to provide this office, within 14 days of the date of this letter, a response in writing and under oath or affirmation that:

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Mr. O. J. Zeringue

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1. describes the actions, if any, taken or planned to ensure that (a) the discriminatory employment action found by the DOL ALJ in this case does not have a chilling effect in discouraging other TVA or contractor employees from raising perceived safety concerns, and (b) employees are aware that they have a right to raise safety concerns without fear of retaliation;
2. describes the totality of actions taken or planned to ensure that all TVA managers and supervisors at Watts Bar will not engage in harassment, intimidation, retaliation or discrimination against TVA or contractor employees who engage in activities protected by the ERA;
3. provides the bases or reasons why the NRC should have confidence that safety concerns about the construction and operation of Watts Bar have been, and will be, appropriately raised and properly resolved.

In addition, your October 12, 1995 letter states that the manager who made the decision to terminate Mr. Klock will receive counseling regarding avoiding any perception of discrimination when taking employment actions. You further stated that, upon completion of such counseling, TVA will assess "the manager's ability to continue carrying out his job responsibilities." You are requested to include in your response to this letter the results of this assessment.

Based on your response, we will decide whether we need to meet with TVA management on this matter in a transcribed public meeting. If you desire to meet on these issues, you should inform us within 7 days of the date of this letter. Enforcement action in this matter will be considered separately.

Sincerely,



Roy P. Zimmerman  
Associate Director for Projects  
Office of Nuclear Reactor Regulation

Docket Nos. 50-390 and 50-391

Mr. O. J. Zeringue

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*Original signed by*  
 Roy P. Zimmerman  
 Associate Director for Projects  
 Office of Nuclear Reactor Regulation

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NAME	Schidakel		RZimmerman		J. Jordon <i>by Tolon</i>					
DATE	10/13/95		10/13/95		10/13/95					

*See previous concurrence*

Mr. O. J. Zeringue

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DATE	10/12/95	10/13/95	10/ /95	10/ /95	10/12/95
OFFICE	OGC	ADP			
NAME	SDakel	RZimmerman			
DATE	10/13/95	10/ /95			

*NCO with charge*

WATTS BAR NUCLEAR PLANT

cc:

Mr. Oliver D. Kingsley, Jr.  
President, TVA Nuclear and  
Chief Nuclear Officer  
Tennessee Valley Authority  
6A Lookout Place  
1101 Market Street  
Chattanooga, Tennessee 37402-2801

Mr. O. J. Zeringue, Sr. Vice President  
Nuclear Operations  
Tennessee Valley Authority  
3B Lookout Place  
1101 Market Street  
Chattanooga, TN 37402-2801

Dr. Mark O. Medford, Vice President  
Engineering & Technical Services  
Tennessee Valley Authority  
3B Lookout Place  
1101 Market Street  
Chattanooga, TN 37402-2801

Mr. D. E. Nunn, Vice President  
New Plant Completion  
Tennessee Valley Authority  
3B Lookout Place  
1101 Market Street  
Chattanooga, TN 37402-2801

Mr. J. A. Scalice, Site Vice President  
Watts Bar Nuclear Plant  
Tennessee Valley Authority  
P.O. Box 2000  
Spring City, TN 37381

General Counsel  
Tennessee Valley Authority  
ET 11H  
400 West Summit Hill Drive  
Knoxville, TN 37902

Mr. P. P. Carrier, Manager  
Corporate Licensing  
Tennessee Valley Authority  
4G Blue Ridge  
1101 Market Street  
Chattanooga, TN 37402-2801

Mr. B. S. Schofield  
Site Licensing Manager  
Watts Bar Nuclear Plant  
Tennessee Valley Authority  
P.O. Box 2000  
Spring City, TN 37381

TVA Representative  
Tennessee Valley Authority  
11921 Rockville Pike  
Suite 402  
Rockville, MD 20852

Regional Administrator  
U.S. Nuclear Regulatory Commission  
Region II  
101 Marietta Street, NW., Suite 2900  
Atlanta, GA 30323

Senior Resident Inspector  
Watts Bar Nuclear Plant  
U.S. Nuclear Regulatory Commission  
1260 Nuclear Plant Road  
Spring City, TN 37381

The Honorable Robert Aikman  
County Executive  
Rhea County Courthouse  
Dayton, TN 37321

The Honorable Garland Lanksford  
County Executive  
Meigs County Courthouse  
Decatur, TN 37322

Mr. Michael H. Mobley, Director  
Division of Radiological Health  
3rd Floor, L and C Annex  
401 Church Street  
Nashville, TN 37243-1532

Ms. Danielle Droitsch  
Energy Project  
The Foundation for  
Global Sustainability  
P.O. Box 1101  
Knoxville, TN 37901

Ms. Ann Harris  
305 Pickel Road  
Ten Mile, TN 37880

Ms. Beth Zilbert, Energy Campaigner  
Greenpeace  
20 13th Street, NE.  
Atlanta, GA 30309

Mr. James P. Riccio  
Public Citizen  
4340 Georgetown Square, #612  
Atlanta, GA 30338