



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION II  
SAM NUNN ATLANTA FEDERAL CENTER  
61 FORSYTH STREET, SW, SUITE 23T85  
ATLANTA, GEORGIA 30303-8931  
May 28, 1999

Tennessee Valley Authority  
ATTN: Mr. J. A. Scalice  
Chief Nuclear Officer and  
Executive Vice President  
6A Lookout Place  
1101 Market Street  
Chattanooga, TN 37402-2801

SUBJECT: DEPARTMENT OF LABOR (DOL) CASE NO. 1997-ERA-061 -  
JOHN A. JUSTUS V. TENNESSEE VALLEY AUTHORITY

Dear Mr. Scalice:

On November 25, 1996, the Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) initiated an investigation to determine if a former Watts Bar Nuclear Plant employee was subjected to illegal discrimination for engaging in an activity protected under Section 211 of the Energy Reorganization Act of 1974, as amended, when he was not selected for certain positions within the Tennessee Valley Authority (TVA) organization. The OI investigation, documented in OI Report No. 2-1996-045, was completed on June 30, 1997. OI concluded that there was not sufficient evidence to substantiate the allegation of discrimination. Enclosed for your information is the synopsis of the OI's completed report.

On October 28, 1996, the U.S. Department of Labor's (DOL) Wage and Hour Division received a complaint on this matter of alleged discrimination. On September 9, 1997, the DOL Assistant Area Director issued a decision in the case and concluded that discrimination was not a factor in the actions comprising the complaint. Mr. Justus subsequently appealed the decision. On November 5, 1998, the DOL Administrative Law Judge (ALJ) issued an Order Granting Partial Summary Decision dismissing the claim involving nine employment positions. Subsequently, on April 9, 1999, the ALJ issued a Recommended Decision and Order, dismissing the remaining portion of the discrimination claim at issue.

Based on NRC investigation and the results of DOL activities in this case, we plan no further action with regard to this matter. Should you have any questions concerning this letter, please contact me at 404-562-4421.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter and the enclosure will be placed in the Public Document Room.

Sincerely,

  
Anne T. Boland, Enforcement Officer  
Enforcement and Investigations  
Coordination Staff

Enclosure: Investigative Synopsis,  
OI Case No. 2-96-045

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PDR ADOCK 05000390  
P PDR

JAY

## SYNOPSIS

The U.S. Nuclear Regulatory Commission (NRC), Region II, Office of Investigations, initiated this investigation on November 25, 1996. This was based on an allegation by a former Tennessee Valley Authority (TVA) Quality Assurance specialist at the Watts Bar Nuclear Plant, who claims he was discriminated against when he was not selected for other positions that opened after he became a reduction-in-force casualty. The allegor's complaints were investigated by the Department of Labor, TVA Office of the Inspector General, and the Equal Employment Opportunity Commission. The allegor was also interviewed by the NRC Office of Investigations.

Based upon the Office of Investigations' review and evaluation of documents and testimony, there was not sufficient evidence to substantiate the allegation of discrimination.

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FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION II~~

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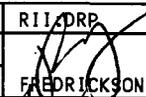
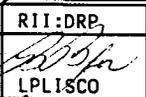
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