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Tennessee Valley Authority, 1101 Market Street, Chattanooga, Tennessee 37402-2301

Mark O. Medford  
Vice President, Engineering & Technical Services

September 25, 1996

U. S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, D.C. 20555

10 CFR 50.7

Dear Sir:

In the Matter of )  
Tennessee Valley Authority )

Docket Nos. 50-327  
50-328

NRC OFFICE OF INVESTIGATIONS (OI) REPORT NO. 2-93-015 - DEPARTMENT OF LABOR (DOL) CASE NO. 94-ERA-24, ADMINISTRATIVE LAW JUDGE (ALJ) RECOMMENDED DECISION AND ORDER (RDO) DATED JULY 31, 1996

This letter responds to NRC's letter of September 10, 1996, requesting information pursuant to 10 CFR § 50.54(f) and NRC's letter of August 16, 1996, requesting information related to an apparent violation of 10 CFR § 50.7 based on the results of the subject OI investigation and ALJ's RDO. This letter also follows up TVA's August 27, 1996, letter to NRC indicating that TVA would address in writing the various factors to be considered by the NRC in applying its Enforcement Policy to the case at hand.

TVA has carefully reviewed the circumstances which led to the filing of William F. Jocher's complaint and does not believe that a violation of Section 211 of the Energy Reorganization Act or 10 CFR § 50.7 of the NRC's regulations occurred. Although mistakes were made by not following appropriate personnel practices, we are convinced that Mr. Jocher was not discriminated against for raising safety concerns.

As you know, the ALJ's RDO is not a final decision and must be reviewed by the DOL Administrative Review Board (ARB). However, in recognition of the serious implications of the ALJ's RDO, TVA has and will continue to address the matter in a responsible and

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proactive fashion. For example, one of the key steps we are taking in response to the RDO is further training and guidance for our senior managers in the proper handling of personnel matters including the need to involve human resource professionals in the planning and review of personnel actions. This non-involvement, along with lack of communication among those involved in the decision to ask for Mr. Jocher's resignation, is what we believe to have been the key failings in the process leading to Mr. Jocher's resignation, rather than discrimination in violation of Section 211 of the Energy Reorganization Act.

Pursuant to the ALJ's RDO, TVA is already in the process of determining backpay, damages, and other costs. In addition, prior to issuing a decision on the merits of the case, the ARB will issue an interim order granting relief to Mr. Jocher and TVA will, of course, fully comply with such order. Moreover, TVA is also exploring opportunities to fully resolve this case as well as an additional complaint Mr. Jocher has recently filed, thus putting an end to any further litigation. TVA will inform the NRC of developments as they arise.

According to NRC's "General Statement of Policy and Procedure for Enforcement Actions," (NUREG-1600), NRC's policy is designed to place more emphasis on a licensee's current performance and to encourage corrective action rather than punitive sanctions. While TVA is mindful of the severity of the apparent violation, it is important that the events in question occurred three and one-half years ago, and that TVA has since made significant progress in improving the workplace environment to a point where employees overwhelmingly feel free to raise concerns. TVA has also established several credible, objective means by which we monitor our nuclear workplace environment in this regard. Most notably, periodic surveys of workplace environment are conducted by TVA's independent Office of the Inspector General which reports directly to the TVA Board and to Congress. Given these measures, it is unnecessary to hire an additional "independent consultant" to monitor that environment. Enclosure 1 discusses TVA's activities to improve its workplace environment and the results of our assessment.

In order to ensure continued employee communications, TVA has recently taken significant action to address any potential negative impact associated with the recent findings in this case. Enclosure 2 discusses TVA's corrective actions to address any possible chilling effect. These corrective actions should also be recognized and credited in NRC's enforcement deliberations on this matter.

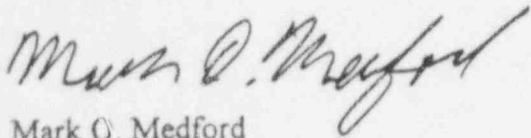
Enclosure 3 discusses the several factors associated with the case at hand which warrant the exercise of NRC's discretion to decline pursuing escalated enforcement or imposing any civil penalty against TVA, or taking any extraordinary enforcement action which would directly affect any individual.

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Enclosure 4 lists the commitments contained in this submittal.

If you have any questions or if I can provide further information, please telephone me at  
(423) 751-4776.

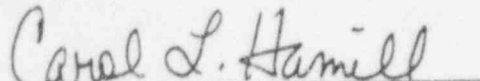
Sincerely,



Mark O. Medford

Enclosures

Subscribed and sworn to before me  
this 25<sup>th</sup> day of September 1996

  
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Notary Public

My Commission Expires 9/8/99

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cc (Enclosures):

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cc (Enclosures):

R. J. Adney, OPS 4A-SQN

## ASSESSMENT OF TVA'S WORKPLACE ENVIRONMENT\*

### Measures Taken to Improve the Workplace Environment

TVA has taken significant actions to improve the workplace environment and foster an atmosphere where employees and contractors feel free to raise concerns. A wide variety of initiatives have been in place, which has been constantly evolving and improving over the last several years, that address workplace communications, open sharing of concerns and ideas, training in the handling of personnel issues, and dealing with employee complaints. We update and adjust our initiatives to address current needs.

TVA has been successful in improving the work environment at Sequoyah Nuclear Plant (SQN) and throughout its nuclear program. The current SQN management team understands the benefits of an open work environment and has demonstrated a high sensitivity to employee concerns and ideas. As indicated in the effectiveness discussion in this enclosure, TVA Office of Inspector General (OIG) employee survey results indicate that SQN employees overwhelmingly feel free to raise concerns directly to management. However, we also recognize that it is a mistake to become complacent. TVA has learned an important lesson over the years in this area in particular--that one must continually move forward to avoid slipping back.

The gains which TVA has achieved in maintaining a workplace where employees feel free to raise concerns have come about as a result of ongoing training, active communications, and regular reinforcement.

- I. TVA has developed and effectively implemented a comprehensive policy addressing employees concerns. TVA Nuclear (TVAN) uses general employee training, retraining sessions, letters to employees as they process into each of its plant sites, postings on bulletin boards, flyers, and "all hands" meetings to teach and reinforce TVA's policy regarding an employee's freedom and responsibility to raise safety concerns. This policy is set forth in TVA's *Principles and Practices Manual* and is entitled "Expressing Concerns and Differing Views." This policy encourages each employee to make his or her views known and encourages employees to seek resolution of concerns and differing views with their supervisor. However, the policy also recognizes that the employee is free to voice concerns to any management level at any time. The policy also discusses alternate paths of communication that employees have to the Concerns Resolution Staff, the OIG, the Board of Directors, or to the NRC. As a result, there is no lack of opportunity to raise issues and there is ample notice to employees as to the nature of those opportunities.

\* This enclosure addresses items 1(a), 3 and 4 of the NRC's letter of September 10, 1996.

All of TVA's employees, including managers at every level, are expected to comply with the written policy. This policy sets the standard by which employee communication is measured, and we have devoted substantial resources to translating its message into reality in TVAN. Our efforts and progress in promoting TVA's communications policy should provide the NRC with confidence that the safety culture is TVAN-wide and not just at SQN. Further, our efforts have proven overall to be effective and permanent though we recognize the continuing need to reinforce the message that all employees' views are encouraged and worthy of expression without fear of reprisal.

- II. TVAN is also taking broad action to teach and reinforce management skills in handling and preventing personnel problems in the workplace. Beginning in March 1996, TVAN instituted an extensive 10-day leadership development program at SQN which includes instruction in areas such as understanding the work process, observation skills, personnel policies and procedures, and coaching skills. The program is being conducted through March of next year and will include SQN's approximately 225 managers and supervisors. Within the program, two full days are devoted to instruction regarding personnel policies and procedures. Part of that instruction reviews the requirements of Section 211 of the Energy Reorganization Act. To date, the program is approximately 50 percent complete. For the remaining managers and supervisors, the class is being modified to further reinforce awareness of how to effectively deal with differing employee views and employee concerns.

In addition, TVAN is taking additional action to help prevent potential problems involving senior managers across the nuclear organization. Human Resources will conduct refresher training sessions starting next month, to remind upper-level corporate and nuclear plant managers about the reasons behind TVAN's personnel practices and to stress the importance of adherence to them. This session will examine past instances where problems have arisen, especially in the area of retaliatory action, both real and perceived. Further, the session will help managers recognize situations which give rise to potential problems, provide positive means of making sure that all employee views are properly dispositioned, and will reinforce the need to fully adhere to personnel practices and ensure that Human Resources is actively involved when decisions are made which affect employment.

The above-described instructional programs will continue to strengthen management's ability to recognize and avoid problems associated with intimidation and harassment in the workplace.

- III. TVAN's Corrective Action Program provides a system for the identification, analysis, correction, and tracking of, among other things, potential nuclear safety issues and concerns. Use of this system by plant employees is a positive indication that they feel free to voice their concerns to management and have confidence that management will take appropriate corrective action. TVAN has taken significant steps over the past two years to improve this system so that employees can use it more readily and effectively. The threshold for concerns has been lowered to

facilitate trending of precursor events and issues are better categorized and prioritized to ensure timely analysis and corrective action. Management oversight has been increased to ensure the system is functioning as intended, to identify adverse trends, and to monitor the timeliness and effectiveness of corrective actions. The system has been made more "user friendly" to encourage employee use and involvement in the corrective action process.

This new system was successfully piloted at Browns Ferry Nuclear Plant in May 1995; it was then implemented at SQN in August 1995 and at Watts Bar Nuclear Plant in March 1996 after start-up. Extensive employee training was conducted at each site to explain the system and to encourage employee use. Special sessions were conducted for managers and supervisors to emphasize their role in assisting employee use of the system, in demonstrating the value of employee input, and in responding promptly to identified issues. Results of this program are summarized below.

- IV. As described in Enclosure 2, TVAN took quick and effective action immediately following receipt of the ALJ's RDO to ensure that there was no chilling effect associated with the decision.

#### These Measures Have Proven Effective

TVAN uses several methods to assess the effectiveness of its efforts to improve the workplace environment. An independent and comprehensive measurement of employee attitudes is regularly performed at TVAN operating sites by TVA's OIG which conducts several hundred face-to-face interviews with TVAN and contractor employees. Interviewees are selected on a random basis from each of the nuclear plant sites and the TVAN Corporate office, and all discussions are held in confidence. For example, in 1994, the OIG interviewed 1,760 TVAN and contractor employees and found that 99 percent of both groups felt free to report safety or quality concerns to their supervisors. In 1995, the OIG interviewed 1,110 TVAN and contractor employees and 99 percent and 99.8 percent of these respective groups felt free to do so.

Insofar as survey results since 1993 at SQN are concerned, the OIG's 1994 survey of TVAN and contractor employees reported that 99 percent of TVAN employees and 100 percent of contractor employees would report their concerns to management. In 1995, the OIG survey recorded the same results as the 1994 survey indicating a steady and positive work environment free of intimidation and harassment. We are enclosing the last two OIG reports of the survey results from SQN. We will discuss in Enclosure 2 the OIG's plans for a 1996 survey which will provide added assurance that there has been no decline in this area.

In addition, TVAN's Concerns Resolution Staff, as well as the various contractors' employee concerns programs, give exiting employees an opportunity to complete a questionnaire on topics such as their willingness to raise any concerns (not limited to nuclear safety and quality as in the OIG survey), their familiarity with the Concerns Resolution Program, and the need for such a program. Since 1993, 2,867 out of 3,136



(91.4 percent) exiting employees, TVAN-wide, who completed the questionnaire have indicated they feel free to discuss any concern with their management. For SQN, since 1993, the numbers are 252 out of 275 or 91.6 percent. In addition, it is important that the overall number of issues expressed to these concerns programs, TVAN-wide, has trended downward since 1993. At SQN, since 1993, the number of employees and contractors expressing concerns has remained consistently low, ranging from 1.3 to 2.0 concerns per month.

A comparison of Corrective Action Program data for Fiscal Year 1994 (the last full year before implementation of the new system) with Fiscal Year 1996 shows the effectiveness of the new system. Total identified Problem Evaluation Reports (PERs) have increased by approximately 100 percent while the number identified by the Quality Assurance organization has remained constant. In other words, the dramatic increase in PERs is attributable to line organizations and their increased willingness to identify and resolve problems. The success of this system proves that employees are willing to express safety concerns and have confidence in management's response.

Based on the above evidence, we are confident in the effectiveness of our policy and actions to ensure that employees feel free to express concerns.

#### Current Trends

TVAN-wide, in the 1989 to 1991 timeframe, the number of employee and contractor Section 211 complaints to DOL has been more than halved. Since the time of Mr. Jocher's DOL complaint in June 1993, there have been four Section 211 complaints at SQN. The first of these complaints was filed in November 1993. It was investigated by TVA's OIG and was not substantiated. DOL's Wage & Hour Division found in favor of TVA and the matter is currently pending before an ALJ. The second complaint was filed in August 1994 but was mishandled by DOL and not sent to TVA until May 1996. The OIG's investigation is in progress, and the Wage & Hour Division has already ruled in TVA's favor. The matter was not appealed further. The third and fourth complaints were filed in January and February 1996. The OIG's investigations are in progress, and the matters are pending before the Wage & Hour Division. There have been no settlement agreements to date to conciliate these cases.

TVAN's Concerns Resolution Staff also receives allegations of intimidation and harassment that do not enter the DOL process. Since June 1993, there have been four such complaints at SQN. Two complaints were raised in 1994, one of which was investigated by the OIG and one by the contractor employee's company. Neither of these complaints was substantiated. Two complaints were also raised in 1995. The intimidation and harassment portion of one of the complaints was not substantiated by the OIG, and the other complaint is still pending before the OIG because it also involves a union grievance which has yet to be resolved. No such complaints have been filed to date in 1996.

TVAN would like to see none of its employees being subject to intimidation and harassment. However, the small number of complaints which have arisen at SQN since

June 1993, and the dispositions of these complaints to date, do not indicate an adverse trend involving intimidation and harassment at SQN. Furthermore, these results are consistent with our indicators which show that there is an overall healthy work environment at the plant and certainly illustrates the anomalous nature of the subject complaint.

### Conclusion

TVAN has taken comprehensive action to develop and ensure an atmosphere where employees feel free to express concerns and has measured the results through surveys conducted by TVA's OIG, exit questionnaires administered by TVAN's Concerns Resolution Staff, and data from TVAN's revised Corrective Action Program.

These measures provide objective data regarding the status of the work environment at TVAN and verify the effectiveness of the actions we have taken. Most notable, from the standpoint of independence and objectivity, are the surveys that are conducted by TVA's OIG. As you may know, TVA's OIG has duties and authority which are virtually the same as those of Inspectors General established under the Inspector General (IG) Act of 1978. In fact, during October 1988, the IG Act was amended to include TVA as an entity with a statutory OIG. Among other things, the IG Act mandated that the IG must be appointed by the TVA Board of Directors and subject only to its general supervision. The OIG cannot be prevented or prohibited by the Board or any other TVA official from initiating, carrying out, or completing any audit, investigation or other inquiry or inspection, or from issuing any report. Further, the OIG reports matters directly to Congress through semiannual and interim reports.

Insofar as the above-described OIG employee surveys are concerned, they are accomplished as part of the OIG's annual review of the overall effectiveness of TVAN's Concerns Resolution Program. The surveys cover a range of topics, including willingness to raise concerns, knowledge of various concerns programs, opinions about the effectiveness of those programs, and opinions about TVAN's ability to solve problems. The survey results are provided to the TVA Board and are distributed within TVAN. These results are also provided to Congress and are routinely provided to the NRC.

In view of the above, it is unnecessary, and perhaps could even be counterproductive, for the NRC to require that an independent consultant evaluate the work environment at SQN. Within TVAN, we have reinforced the principle and expectation that the primary duty and responsibility to promote trust and open communications in the workplace lie with the line organizations. We have likewise prompted the line organizations to be responsible for soliciting feedback from employees and resolving their concerns. We believe that TVAN has made substantial progress toward those goals. The OIG process already provides an independent measure of TVAN's progress in this area and a reliable indicator of the health of the workplace environment at SQN. The mandated involvement of an outside consultant would be redundant to the OIG process, and could undermine the progress TVAN has achieved and the self-sufficiency TVAN has demonstrated in improving that environment.

### ABSENCE OF ANY CHILLING EFFECT\*

Following the ALJ's RDO, TVA took prompt corrective action to address the potential for any chilling effect which would discourage employees from raising safety issues. As noted previously, Mr. Jocher's complaint was filed over three years ago and indications since that time consistently show that employees overwhelmingly feel free to raise concerns. Nonetheless, within days of the ALJ's RDO dated July 31, 1996, TVAN took wide-ranging action to reinforce TVA's policy that employees are encouraged to raise safety concerns without fear of reprisal.

On August 7, 1996, an article entitled "Kingsley Re-Emphasizes Open Communications in TVA Nuclear" appeared in *TVA TODAY*, an electronic daily newsletter containing news items of interest which is circulated to between 7,500 to 10,000 employees. In that article, the outcome of the ALJ's recommended decision in the Jocher case was specifically mentioned along with statements emphasizing that TVA encourages employees to raise concerns without fear of reprisal. The article announced that Oliver D. Kingsley, Jr., President and Chief Nuclear Officer of TVA Nuclear, would meet with TVAN senior-level officers to re-emphasize that TVA encourages employees to raise concerns without any fear of reprisal and that he would direct the senior managers to reaffirm the TVA Board's commitment to open communications throughout the nuclear power organization. In closing, the article quoted Mr. Kingsley as stating:

TVA nuclear employees are on the front line helping ensure that safety and quality are paramount in the operation of our generating facilities . . . . We will continue to encourage them to bring concerns to the attention of management.

On that same day, August 7, 1996, Mr. Kingsley also issued a memorandum to all TVAN employees and contractors entitled, "The Importance of Open Communication." The memorandum's clear message was that, in order to ensure TVAN's continued success, input from employees is valuable and problems must be made known so that they may be effectively addressed. The memorandum encouraged the expression of safety concerns and reiterated the TVA Board's and the Chief Nuclear Officer's policy "that intimidation, harassment, discrimination, or retaliation for expressing concerns will not be tolerated." The memorandum went on to discuss the importance of resolving concerns with line supervision "up to and including me, if necessary." Further, the memorandum explained that alternate paths of communication outside of the normal line process are available, including TVAN's Concerns Resolution Staff, contractor employee concerns programs, TVA's OIG, and the NRC.

As described in the *TVA TODAY* article, in an executive staff meeting held on August 7, 1996, the Chief Nuclear Officer spoke with the Senior Vice President of Nuclear Operations, the Browns Ferry, Sequoyah, and Watts Bar Nuclear Plant Site Vice

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\* This enclosure addresses item 1(b) of the NRC's letter of September 10, 1996

Presidents, and other TVAN senior managers about the ALJ's RDO. Mr. Kingsley stressed senior management's responsibilities for promoting a workplace environment where employees feel safe and responsible for raising safety concerns. Mr. Kingsley reiterated TVA's and his personal policy prohibiting taking action against employees for raising safety concerns, or of taking such action in circumstances that can be perceived as retaliation. He also distributed and discussed NRC's recent policy statement entitled, "Freedom of Employees in the Nuclear Industry to Raise Safety Concerns Without Fear of Retaliation." Finally, Mr. Kingsley asked that each of the officers and managers at the meeting carry his message to their organizations and to make sure that TVAN's employees and contractors are encouraged to make their concerns known.

On August 14, 1996, Mr. Kingsley followed up the August 7, 1996, senior managers meeting with a memorandum to its attendees reiterating his commitment to an open workplace environment and once again distributed the above-mentioned NRC policy. In addition, Mr. Kingsley attached specific talking points to be used by these senior managers in their "roll-down" discussions within their organizations. These talking points covered each of the matters discussed with the senior managers and ensured that a complete and consistent message would be provided to each organizations' managers, supervisors, and employees consistent with their job responsibilities. These "roll down" discussions began immediately after Mr. Kingsley's memorandum and are currently ongoing.

These prompt actions address any potential chilling effect arising out of the recent RDO. As a further verification of its assessment, however, TVA will study the results of the TVA OIG's upcoming 1996 employee survey. This survey will be performed at each of the three nuclear plant sites and TVAN's Corporate office and examine, among other things, willingness to raise concerns to management. From these results, TVA will be able to determine whether there is any statistically significant change from previous surveys, especially in the SQN results. The upcoming surveys are currently scheduled to take place in the last quarter of this calendar year. TVA will notify NRC as soon as the results become available along with any corrective actions that TVA feels are warranted should the results indicate a need to make any improvements.

## ADDITIONAL ENFORCEMENT CONSIDERATIONS\*

As discussed in Enclosures 1 and 2, TVA has taken significant action to establish and maintain an open working environment, has verified that the efforts have been effective, and has also taken significant action to address any potential chilling effect arising out of Mr. Jocher's complaint. These factors, along with the age of the events at issue, should be considered as part of the NRC's enforcement deliberations.

TVA's examination of the events giving rise to the complaint lead us to conclude that the three individuals involved in the decision to ask for the resignation of Mr. Jocher did not do so for discriminatory reasons. Accordingly, we do not believe that any violation of Section 211 of the Energy Reorganization Act or 10 CFR § 50.7 occurred. However, we also determined that appropriate personnel practices were not followed in the course of these individuals' decision-making process. This resulted in a belief among some that TVA's employment action regarding Mr. Jocher was taken for inappropriate reasons. To address this matter, TVA has taken corrective actions applicable to the individuals who were involved in the resignation decision.

The senior officer who was primarily involved in the decision to request Mr. Jocher's resignation is no longer assigned to TVAN, and has not been since April 1993. TVA's Chief Operating Officer issued a letter of reprimand to this officer following the ALJ's RDO for failing to observe TVA's personnel practices in connection with Mr. Jocher's resignation. The letter sets forth the high performance expectations associated with this individual's position and the fact that TVA cannot permit actions which may give rise to a perception that action was taken for inappropriate reasons. The letter recognizes that important decisions involving the employment status of an employee require a clear and common understanding among all managers involved in that decision, and that failure to do so can lead to serious negative consequences for the employee and TVA. The letter also addresses the special sensitivity that is necessary when taking action involving TVAN employees. In these cases, it is pointed out that even a perception of impropriety can create a negative impression among other employees and organizations. Because TVA cannot permit actions by its managers which give rise to such perceptions, the officer has been required to receive training in order to help avoid future problems. The letter of reprimand was also placed in the officer's personnel history record.

In view of the circumstances associated with the case, we do not believe that any individual NRC enforcement action involving this officer is warranted. Should NRC ultimately disagree with TVA's position and determine that a violation of 10 CFR § 50.7 occurred, we believe that sufficient extenuating and mitigating circumstances exist, such as the disciplinary actions already taken by TVA, to warrant the NRC either withholding individual enforcement or refraining from taking any action to preclude or restrict the officer from involvement in NRC-licensed activities.

\* This enclosure addresses items 2 and 5 in the NRC's letter of September 10, 1996

Two other individuals were also involved in the decision-making process which led to Mr. Jocher's resignation. The more senior of those individuals is no longer with TVA. However, TVA has placed a memorandum describing the circumstances of this case in his employment file. In the event of any future request for reemployment by this individual, TVA's assessment will take into account his shortcomings in the decision-making process. The third individual involved in the resignation decision remains employed as a manager in TVAN. He has received a letter of reprimand for failing to observe TVA's personnel practices and has had restrictions placed on his ability to take employment action against employees under his supervision. He will also receive the senior manager training described in Section II of Enclosure 1.

The continuing implementation of the training and instructional programs described in Enclosure 1 will help prevent future problems involving the way senior managers handle personnel issues. We believe they will strengthen management's ability to recognize and avoid problems associated with intimidation and harassment in the workplace.

TVA is also mindful of its obligations insofar as Mr. Jocher is concerned. Pursuant to the ALJ's RDO, TVA is in the process of determining damages, attorney fees and costs. TVA will, of course, fully comply with the ARB's interim order granting relief to Mr. Jocher. In addition, TVA has also begun exploring opportunities with Mr. Jocher and his attorney to fully resolve this as well as a recent additional complaint without any further litigation. TVA will inform the NRC of developments as they arise.

Another consideration is the safety significance associated with the circumstances that gave rise to, and which resulted from, the filing of Mr. Jocher's complaint. TVAN reexamined the technical concerns raised by Mr. Jocher during the time he served as the SQN Chemistry Manager. A joint review was conducted by the SQN Quality Assurance and Corporate Licensing staffs which assessed concerns identified by Mr. Jocher while at SQN. The conclusion of the review was that none of these concerns present any safety-related problem at SQN. As to the consequences resulting from the DOL's consideration of Mr. Jocher's complaint, TVA's detailed discussion in Enclosure 1 indicates an overall positive assessment of the workplace environment. Further, as discussed in detail in Enclosure 2, our corrective actions to mitigate the potential for any chilling effect have been extensive. Accordingly, TVA is of the strong belief that there is no safety significance associated with any aspect of Mr. Jocher's complaint.

TVA fully understands the regulatory significance associated with any senior official's involvement in acts of discrimination for raising safety concerns. The previous involvement of an officer referred to in the NRC's letter of September 10, 1996, arose out of a complaint filed over seven years ago in July 1989. As we explained in detail in Enclosure 1, TVAN has made significant progress since that time in improving the quality of the working environment. TVAN's current performance and the reports from our employees demonstrate that we are moving in the right direction. Further, we do not believe the current case to be one of discrimination, but rather a mishandling of a personnel action which we are taking steps to prevent in the future. The NRC's conclusion of discrimination by an officer at this point, as we understand the NRC's

predecisional enforcement process, is not merited. In any event, we do not believe that those instances indicate a pattern or programmatic problem involving discrimination by TVAN management.

In consideration of all of the above, TVA believes there is ample basis for the NRC to exercise its discretion to decline pursuing escalated enforcement or imposing any civil penalty against TVA or taking any extraordinary enforcement action which would directly affect any individual.

### COMMITMENTS

1. TVA will inform the NRC of developments associated with Mr. Jocher's complaint including the issuance of any further orders or decisions by the ALJ or ARB regarding claims for damages, liability, or the resolution of the case by the parties.
2. TVA will inform the NRC of the results of the TVAN and contractor employee surveys which are currently scheduled to take place in the last quarter of 1996, along with any corrective actions that TVA believes are warranted should the results indicate a need to improve.