

September 29, 1997

EA 97-456

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

SUBJECT: COMPLAINT OF ALLEGED DISCRIMINATION

Dear Mr. Kingsley:

On June 26, 1996, the U. S. Department of Labor's Wage and Hour Division in Knoxville, Tennessee, received a complaint from an employee of Tennessee Valley Authority (TVA), Mr. Gary L. Fiser. Mr. Fiser alleged that he was subjected to an adverse personnel action at TVA's Corporate Office on June 13, 1996, when his Pressurized Water Reactor (PWR) chemistry position was posted, because he had revealed deficiencies in TVA activities and management decisions with respect to compliance with NRC regulations, particularly 10 CFR 50, Appendix I. In response to that complaint, the Wage and Hour Division conducted an investigation, and in a letter dated September 2, 1997, the Assistant District Director of the Wage and Hour Division issued a decision in the case. The Assistant Area Director found that Mr. Fiser was discriminated against when TVA failed to select him for the PWR chemistry position posted in June 1996 and that the adverse action was directly linked to Mr. Fiser's protected activities, in particular his previous 1993 DOL complaint.

Based on this information, the NRC is concerned that a violation of the employee protection provisions set forth in 10 CFR 50.7 may have occurred and that the actions taken against Mr. Fiser may have had a chilling effect on other licensee or contractor personnel.

Accordingly, pursuant to Sections 161c, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR 50.54(f), in order for the Commission to determine whether your license should be modified, suspended, or revoked, or other enforcement action taken to ensure compliance with NRC regulatory requirements, you are required to provide this office, within 30 days of the date of this letter, a response in writing and under oath or affirmation that describes:

1. Your position regarding whether the actions affecting this individual violated 10 CFR 50.7 and the basis for your position, including the results of any investigations you may have conducted to determine whether a violation occurred; and

9710090333 970929  
PDR ADOCK 05000327  
G PDR



1/2  
Jes4  
LE01

2. Action you have already taken or plan to take to assure that this matter is not having a chilling effect on the willingness of other employees to raise safety and compliance concerns within your organization and, as discussed in NRC Form-3, to the NRC.

We recognize that you may not believe that unlawful discrimination has occurred in this case. We also note that you have and/or will provide information relative to chilling effect in response to our letters to TVA dated July 2 and September 8, 1997, regarding recent DOL decisions associated with the Watts Bar and Sequoyah Plants, respectively. Regardless of your answer to Item 1 above and the information which may have been previously provided, we request that you consider the need to address the possible chilling effect that this case may have on other employees.

Your response should not, to the extent possible, include any personal privacy, proprietary, or safeguards information so that it can be released to the public and placed in the NRC Public Document Room (PDR). If personal privacy information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the personal privacy-related information and a redacted copy of your response that deletes the personal privacy-related information. Identify the particular portions of the response in question which, if disclosed, would create an unwarranted invasion of personal privacy, identify the individual whose privacy would be invaded in each instance, describe the nature of the privacy invasion, and indicate why, considering the public interest in the matter, the invasion of privacy is unwarranted. If you request withholding on any other grounds, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

After reviewing your response, the NRC will determine whether enforcement action is necessary at this time to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and your response will be placed in the PDR.

Sincerely,

Original Signed by  
L. A. Reyes

Luis A. Reyes  
Regional Administrator

Docket Nos. 50-327, 50-328  
License Nos. DPR-77, DPR-79

cc: See Page 3

## cc:

Assistant Administrator  
Employment Standards Administration  
Wage and Hour Division  
U. S. Department of Labor  
Room S-3502  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

Carol Merchant, Assistant District  
Director  
Wage and Hour Division  
Employment Standards Administration  
John Duncan Federal Building  
710 Locust St., Room 101  
Knoxville, TN 37902

O. J. Zeringue, Senior Vice  
President  
Nuclear Operations  
Tennessee Valley Authority  
6A Lookout Place  
1101 Market Street  
Chattanooga, TN 37402-2801

Jack A. Bailey, Vice President  
Engineering & Technical Services  
Tennessee Valley Authority  
6A Lookout Place  
1101 Market Street  
Chattanooga, TN 37402-2801

Masoud Bajestani  
Site Vice President  
Sequoyah Nuclear Plant  
Tennessee Valley Authority  
P. O. Box 2000  
Soddy-Daisy, TN 37379

General Counsel  
Tennessee Valley Authority  
ET 10H  
400 West Summit Hill Drive  
Knoxville, TN 37902

Raul R. Baron, General Manager  
Nuclear Assurance  
Tennessee Valley Authority  
4J Blue Ridge  
1101 Market Street  
Chattanooga, TN 37402-2801

Mark J. Burzynski, Manager  
Nuclear Licensing  
Tennessee Valley Authority  
4J Blue Ridge  
1101 Market Street  
Chattanooga, TN 37402-2801

Pedro Salas, Manager  
Licensing and Industry Affairs  
Sequoyah Nuclear Plant  
P. O. Box 2000  
Soddy-Daisy, TN 37379

J. T. Herron, Plant Manager  
Sequoyah Nuclear Plant  
Tennessee Valley Authority  
P. O. Box 2000  
Soddy Daisy, TN 37379

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

County Executive  
Hamilton County Courthouse  
Chattanooga, TN 37402

Gary L. Fiser  
3030 Laurel Cove Lane  
Signal Mountain, TN 37377

TVA

Distribution:

RZimmerman, NRR  
 JLieberman, OE  
 JGoldberg, OGC  
 EJulian, SECY  
 BKeeling, CA  
 BUryc, RII  
 CEvans, RII  
 JJohnson, RII  
 FHebdon, NRR  
 RHernan, NRR  
 MLesser, RII  
 SSparks, RII  
 MStein, OE  
 BSummers, OE (2 ltrhd)  
 ODeMiranda, RII  
 RII DOL File  
 PUBLIC

NRC Resident Inspector, Operations  
 U. S. Nuclear Regulatory Commission  
 1260 Nuclear Plant Road  
 Spring City, TN 37381

NRC Resident Inspector, Operations  
 Sequoyah Nuclear Plant  
 U. S. Nuclear Regulatory Commission  
 2600 Igou Ferry Road  
 Soddy-Daisy, TN 37379

| SEND TO PUBLIC DOCUMENT ROOM? <input checked="" type="radio"/> YES <input type="radio"/> NO |                                     |      |                                     |      |                                     |      |                                     |      |                                      |      |
|---|-------------------------------------|------|-------------------------------------|------|-------------------------------------|------|-------------------------------------|------|--------------------------------------|------|
| OFFICE  | RII:DRP                             |      | RII:DRP                             |      | RII:ORA                             |      | RII:EICS                            |      | RII:ORA                              |      |
|   | <input checked="" type="checkbox"/> |      | <input checked="" type="checkbox"/> |      | <input checked="" type="checkbox"/> |      | <input checked="" type="checkbox"/> |      | <input checked="" type="checkbox"/>  |      |
| NAME  | MLesser                             |      | JJohnson                            |      | CEvans                              |      | BUryc                               |      | BMallett                             |      |
| DATE  | 09 /                                | / 97 | 09 /                                | / 97 | 09 /                                | / 97 | 09 /                                | / 97 | 09 /                                 | / 97 |
| COPY?   | YES                                 | NO   | YES                                 | NO   | YES                                 | NO   | YES                                 | NO   | <input checked="" type="radio"/> YES | NO   |

OFFICIAL RECORD COPY DOCUMENT NAME: H:\DOLCHILL.DIR\FISER97.CEL

*See previous correspondence*

TVA

4

Distribution:

RZimmerman, NRR  
 JLieberman, OE  
 JGoldberg, OGC  
 EJulian, SECY  
 BKeeling, CA  
 BUryc, RII  
 CEvans, RII  
 JJohnson, RII  
 FHebdon, NRR  
 RHernan, NRR  
 MLesser, RII  
 SSparks, RII  
 MStein, OE  
 BSummers, OE (2 ltrhd)  
 RII DOL File  
 PUBLIC

NRC Resident Inspector, Operations  
 U. S. Nuclear Regulatory Commission  
 1260 Nuclear Plant Road  
 Spring City, TN 37381

NRC Resident Inspector, Operations  
 Sequoyah Nuclear Plant  
 U. S. Nuclear Regulatory Commission  
 2600 Igou Ferry Road  
 Soddy-Daisy, TN 37379

| SEND TO PUBLIC DOCUMENT ROOM? |   | YES   | NO  |   |  |
|-------------------------------|---|---|---|---|--|
| OFFICE                        | RII:DRP   | RII:DRP   | RII:ORA   | RII:ICS   | RII:ORA  |
|                               | <i>NO For</i>   | <i>JH</i>   | <i>NLO</i>  | <i>[Signature]</i>  |  |
| NAME                          | MLesser   | JJohnson  | CEvans  | BUryc   | BMallett   |
| DATE                          | 09 / 26 / 97  | 09 / 26 / 97  | 09 / 26 / 97  | 09 / 26 / 97  | 09 / / 97  |
| COPY?                         | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input type="checkbox"/> NO |