

**From:** JShealA-Hearing Resource  
**Sent:** Friday, February 12, 2021 10:37 PM  
**To:** JShealA-HearingNPEm Resource  
**Subject:** Emailing: RII-2018-A-0098 - Marked for Redactions\_Part3\_Redacted.pdf  
**Attachments:** RII-2018-A-0098 - Marked for Redactions\_Part3\_Redacted.pdf

**Hearing Identifier:** JShea\_IA\_NonPublic  
**Email Number:** 1024

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**Subject:** Emailing: RII-2018-A-0098 - Marked for Redactions\_Part3\_Redacted.pdf  
**Sent Date:** 2/12/2021 10:36:31 PM  
**Received Date:** 2/12/2021 10:36:50 PM  
**From:** JShealA-Hearing Resource

**Created By:** JShealA-Hearing.Resource@nrc.gov

**Recipients:**  
"JShealA-HearingNPEM Resource" <JShealA-HearingNPEM.Resource@nrc.gov>  
Tracking Status: None

**Post Office:** HQPWMSMRS02.nrc.gov

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MESSAGE	0	2/12/2021 10:36:50 PM
RII-2018-A-0098 - Marked for Redactions_Part3_Redacted.pdf		22905478

**Options**  
**Priority:** Normal  
**Return Notification:** No  
**Reply Requested:** No  
**Sensitivity:** Normal  
**Expiration Date:**

close friends[hip]," Ms. Conner's ability to provide independent, "unbiased oversight" of SQN Licensing, in my view, was compromised.<sup>102</sup>

Mr. McBrearty incorrectly believes Ms. Henderson "had his gate records pulled."<sup>103</sup> To the contrary, HR, not Ms. Henderson, decided to pull his, as well as Ms. Conner's, gate records as part of its investigation of the concern raised by Ms. Henderson.<sup>104</sup> As one of Ms. Henderson's direct reports stated during his interview, the pulling of "gate records pushed [Mr. McBrearty] over the edge"<sup>105</sup> and he blames Ms. Henderson<sup>106</sup> and has asserted to others that Ms. Henderson had his gate records pulled.<sup>107</sup>

As discussed above, Mr. McBrearty also engaged in an intentional and sustained campaign of disrespectful conduct and behavior toward Ms. Henderson. Both Mr. Shea and Mr. Polickoski indicated during their interviews that Mr. McBrearty engaged in such to undermine Ms. Henderson with regard to her subordinates and superiors and others outside of Corporate Nuclear Licensing.

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<sup>102</sup> HR Investigation Report at 1.

<sup>103</sup> Interview of McBrearty.

<sup>104</sup> HR Investigation Report at 1.

<sup>105</sup> Interview of Polickoski.

<sup>106</sup> Interview of McBrearty.

<sup>107</sup> Interview of Wetzel.

### Management's Response

Although it appears that management took three concrete steps to address Mr. McBrearty's conduct, those steps were ultimately unsuccessful. First, after the issuance of the HR Investigation Final Report in June 2016, management limited Ms. Henderson's "time spent at SQN and direct engagement with the peer team--the site Licensing Managers."<sup>108</sup> This step was unsuccessful and ineffective as Mr. McBrearty's conduct and behavior continued.<sup>109</sup> Moreover, this attempt to stem Mr. McBrearty's conduct and behavior effectively has removed a significant piece of Ms. Henderson's duties and responsibilities in that she "[d]irects the governance, oversight, and direction of the Nuclear Power Group (NPG) Corporate and Site Licensing functions in support of the operation of [all] TVA nuclear plants" and "[s]erves as the expert and single point-of-contact for NRC headquarters, interface for licensing issues for [all of] the TVA sites"<sup>110</sup> (emphasis added).

In addition to being ineffective, step 1 appears punitive. Ms. Henderson stated in her interview that she "just wants to come to work and do my job" but that it is difficult to accomplish when she "cannot adequately challenge the SQN staff."<sup>111</sup>

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<sup>108</sup> Complaint at 3; Interviews of Henderson and Shea. Ms. Henderson states in the Complaint that she "agreed" to this limitation of her duties. Complaint at 3.

<sup>109</sup> Complaint at 1, 3, 8; Interviews of Henderson and Shea.

<sup>110</sup> Henderson PD.

<sup>111</sup> Interview of Henderson



Second, approximately from April to June 2017, Ms. Henderson's manager-- Mr. Shea--and Ms. Henderson engaged SQN management about Mr. McBrearty's conduct and behavior in an effort to bring an end to Mr. McBrearty's conduct and behavior.<sup>112</sup> Mr. Shea and Ms. Henderson sought the assistance of Gregory A. Boerschig, Vice President, Nuclear Oversight, Anthony Lawrence Williams IV, Site Vice President, SQN, and Dennis G. Dimopoulos, Director, Plant Operations, to get Mr. McBrearty to stop his inappropriate conduct and behavior toward Ms. Henderson.<sup>113</sup> This step also failed, as Mr. McBrearty's conduct and behavior continued and, in my view, escalated.<sup>114</sup> (Moreover, as discussed above (at 11), Mr. Polickoski intervened and counseled Mr. McBrearty but Mr. Polickoski's effort also failed.)

The third step was to settle and resolve Ms. Conner's DOL complaint, by acceding to Ms. Conner's request to be removed from Ms. Henderson's supervision and placing her in the new position of Senior Program Manager, SMR Ops & Training under the supervision of Daniel P. Stout, Senior Manager, SMR Technology.<sup>115</sup> Settling with [Ms. Conner] was done, in part, to alleviate some of the challenges [Ms. Henderson]

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<sup>112</sup> Interviews of Shea and Henderson; Complaint at 3.

<sup>113</sup> Interviews of Shea and Henderson; Complaint at 3.

<sup>114</sup> Interviews of Shea and Henderson; Complaint at 3.

<sup>115</sup> Complaint at 2; Org Chart; Interviews of Henderson and Shea.

faced with both [Ms. Conner] and [Mr. McBrearty].<sup>116</sup> This step too did not stop Mr. McBrearty's conduct and behavior.<sup>117</sup>

It does not appear that management attempted any other measures to stop the offending conduct. Instead, the conduct and behavior have now continued for two years and counting.

### Analysis

Ms. Henderson alleges that she has been, and continues to be, harassed or retaliated against by Mr. McBrearty, SQN Licensing Manager, and such harassment is repetitive and pervasive, resulting in a hostile work environment. Complaint at *passim*. "Harassment is any action or behavior toward a person that has the effect or perceived effect of causing the person to be uncomfortable or afraid of working in the employment environment." *NRC Allegation Manual* (Apr. 23, 2015, rev. 1) at 243. "Harassment covers a wide range of offensive intentional behaviors intended to be disruptive, and is characteristically repetitive, often contributing to a hostile work environment." *Id.* "Harassment that progresses to the point of establishing a hostile work environment is a form of discrimination." *Id.* Harassment is illegal and prohibited under a number of Federal statutes and regulations. See Part A Below. An employer is automatically liable for harassment by a supervisor that results in an adverse employment action and if the supervisor's harassment results in a hostile work environment, the employer can avoid liability only if it can prove (1) it reasonably tried to prevent and promptly correct

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<sup>116</sup> Complaint at 2; Interviews of Henderson and Shea.

<sup>117</sup> Complaint at 3; Interviews of Henderson and Shea.

the harassing behavior, and (2) the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer. *Burlington Indus. Inc. v. Ellerth*, 524 U.S. 742, 765 (1998); *Faragher v. Boca Raton*, 524 U.S. 775, 778 (1998). Similarly, harassment is prohibited under TVA policy. *E.g.*, TVA-SPP-11.8.4 (at 5).

However, petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of actionable harassment. *Burlington N. and Santa Fe Ry. Co. v. White*, 548 U.S. 53, 68 (2006). To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people. *Thornton v. Federal Express*, 530 F.3d 451, 455 (6th Cir. 2008); *Hafford v. Seidner*, 183 F.3d 506, 512 (6th Cir. 1999). Offensive conduct may include, among other things, actions that result in the interference with work performance. *Thornton*, 530 F.3d at 455; *Hafford*, 183 F.3d at 512.

The conduct alleged in this case also gives rise to a claim of retaliation. Retaliation is an action taken against an employee because he or she has engaged in protected activity. *EEOC v. New Breed Logistics*, 783 F.3d 1057, 1066 (6th Cir. 2015). Retaliation is illegal and prohibited under a number of federal statutes and regulations. See Part A below. Likewise, retaliation is prohibited under TVA policy. *E.g.*, TVA-SPP-11.8.4 (at 5).

#### **A. Discrimination**

A federal employee may not be discriminated (nor retaliated) against or harassed with respect to the terms, conditions, or privileges of employment on the basis of race, color, religion, sex, national origins, age or disability. See Title VII of the Civil Rights Act



of 1964, 42 U.S.C. § 2000e-16 (2012); The Age Discrimination in Employment Act of 1973, 29 U.S.C. § 633a (2012); The Rehabilitation Act of 1973, 29 U.S.C. §§ 791, 794 (2012). In her interview, Ms. Henderson informed the undersigned that she does not assert that she is (or was) being discriminated or retaliated against or harassed on any of the bases in the above statutes.

**B. Retaliation/Harassment (Whistleblower)**

The Whistleblower Protection Act, 5 U.S.C. § 2302 (2012), does apply. A Federal employee may not take a personnel action against an employee because of protected whistleblowing. 5 U.S.C. § 2302(b)(8) (2012). Protected whistleblowing is defined, under 5 U.S.C. § 2302(b)(8), as disclosing information which the discloser reasonably believes evidences (1) a violation of law, rule, or regulation; (2) gross mismanagement; (3) gross waste of funds; (4) an abuse of authority; or (5) a substantial and specific danger to public health or safety. Personnel action includes, *inter alia*, "any significant change in duties, responsibilities, or working conditions." 5 U.S.C. § 2302(a)(2)(xii) (2012).

Ms. Henderson is a whistleblower. In April 2016, Ms. Henderson raised a concern to HR as to whether Ms. Conner could provide independent and unbiased oversight of the SQN Licensing group due to the nature of the personal relationship between Ms. Conner and Mr. McBrearty. As a general matter, under applicable Federal regulations, Ms. Conner's employment "is a public trust," requiring her to "to place loyalty to," among other things, "ethical standards above private" matters; to "put forth honest effort in the performance of [her] duties"; and to "avoid any actions creating the appearance" that she is "violating" applicable "ethical standards." 5 C.F.R.

§ 2635.101(b)(1), (5), and (14) (2017). Moreover, under the *TVA Code of Conduct*, "TVA management will act impartially and avoid situations in which an employee or contractor within their scope of supervision **or oversight** reasonably could be perceived as receiving an unfair advantage, such as because of a romantic, financial, or other personal relationship." *TVA Code of Conduct* at 5 (emphasis added). Of equal significance, "TVA management will ensure that **employees understand their affirmative duty to report actual or suspected violations of laws or ethics requirements** and the procedures and mechanisms available to them for reporting." *TVA Code of Conduct* at 5 (emphasis added). Ms. Henderson thus had an obligation, and was duty-bound, to raise this concern.

Given the nature of the relationship, Ms. Henderson reasonably believed that Ms. Conner could not exercise independent and unbiased oversight as CFAM over the SQN Licensing organization and the performance of oversight under these circumstances would violate federal and TVA ethical standards as well as pose a substantial and specific danger to public health or safety. Mr. Paul explained that Site Licensing is "the conscious of the station"; "ensures that the site complies with all regulatory requirements, as well as with all the "commitments" it makes and undertakes; serves as "the backstop for Operations"; and determines "what events are reportable or not."<sup>118</sup> Compromised oversight of Site Licensing upsets this dynamic and is a nuclear safety concern. This disclosure is thus is protected activity under the WPA.

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<sup>118</sup>

Interview of Paul.



In order to prove a prima facie case for retaliation for whistleblowing activities, the employee must establish by a preponderance of the evidence that he or she made a disclosure within the meaning of 5 U.S.C. § 2302(b)(8) and that the disclosure was a contributing factor in the personnel action at issue. *Chambers v. Dep't of the Interior*, 116 M.S.P.R. 17, 25 ¶ 12 (2011). "Further, evidence of retaliatory motive, and of the agency officials' knowledge of whistleblowing and the timing of the prohibited personnel action, may properly be considered in deciding both the second and third steps of a whistleblower analysis." *Caddell v. Dep't of Justice*, 61 M.S.P.R. 670, 681 (1994), citing *Marano v. Dep't of Justice*, 2 F.3d 1137, 1141–42 (Fed. Cir. 1993); *Clark v. Dep't of the Army*, 997 F.2d 1466, 1472 (Fed. Cir. 1993).

Mr. McBrearty was aware of Ms. Henderson's disclosure to HR. In fact, Mr. McBrearty declared in the interview that Ms. Henderson "had me investigated" and "had my gate records pulled."<sup>119</sup> Both Mr. McBrearty and Ms. Conner, as well as Ms. Henderson, were interviewed by HR in 2016 and Site Security informed Mr. McBrearty that his gate records were being "pulled."<sup>120</sup> HR noted, in its June 2016 Investigation Report, that "[t]he individuals were inappropriately made aware that their gate records were pulled so there was a heightened level of sensitivity during the investigation."<sup>121</sup> This shows that there is no dispute that Mr. McBrearty was/is aware of

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<sup>119</sup> Interview of McBrearty.

<sup>120</sup> HR Investigation Report at 1.

<sup>121</sup> HR Investigation Report at 1.



the concern that Ms. Henderson raised to HR.<sup>122</sup> As a direct result of Mr. McBrearty's conduct and behavior, the evidence shows that Ms. Henderson's management "limit[ed] both [her] time spent at SQN and [her] direct engagement with the peer team (site licensing managers) even though there was a significant need to engage in that forum to improve performance."<sup>123</sup> This restriction severely impacts Ms. Henderson's responsibility "for formulating and executing fleet governance and oversight strategies and programs to achieve and sustain excellence in **all** of TVA's operating fleet nuclear regulatory matters" and "providing "strategic guidance to senior corporate **and site leaders** on range of nuclear regulatory issues." Henderson PD (emphasis added). This limitation is a "significant change in duties, responsibilities, or working conditions." 5 U.S.C. § 2302(a)(2)(xii).

The evidence supports a retaliatory motive. Mr. McBrearty remains ticked that Ms. Henderson "had [him] investigated" and "had [his] gate records pulled." He told Ms. Wetzel that Ms. Henderson had him investigated and pulled his gate records. The statement to Ms. Wetzel persuaded her that Ms. Henderson is not a person who can be trusted and she just does not "understand what motivates a person to pull gate records and have people investigated."<sup>124</sup> Some members on his own staff have recognized "that [Mr. McBrearty] has not been able to move past actions that occurred to his friend

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<sup>122</sup> Moreover, Mr. McBrearty told Ms. Wetzel about the investigation and that his gate records were pulled. Interview of Wetzel.

<sup>123</sup> Complaint at 3.

<sup>124</sup> Interview of Wetzel.

[Ms. Conner] as the result of the friend's conflict with [Ms. Henderson]."<sup>125</sup> In my view, the grudge Mr. McBrearty has against Ms. Henderson is still alive and well. His conduct and behavior rise to the level of retaliation/harassment under the WPA.

Ms. Henderson also is a whistleblower under Section 211 of the Energy Reorganization Act, 42 U.S.C. § 5851 (2012). Her disclosure/concern reported to HR is protected activity in that, as described above, it involved a nuclear safety-related issue. In addition, Mr. McBrearty was aware of the disclosure/concern and the same retaliatory motive exists as it does in regard to the WPA.

### **C. Retaliation/Harassment (TVA Policies)**

Mr. McBrearty's conduct and behavior fall under and violate three TVA policies. The *TVA Code of Conduct* cannot be any clearer: "TVA management will maintain a workplace environment that prevents retaliation or reprisals against an employee who in good faith reports actual or suspected violations of laws or ethics requirements. Retaliation against employees who report perceived violation, or who participate in investigations as witnesses or in other capacities, violates the law and TVA policy."<sup>126</sup> Such retaliation is prohibited and will not be tolerated." *TVA Code of Conduct* at 5. Mr. McBrearty was/is aware of Ms. Henderson's report to HR and has engaged in retaliatory conduct and behavior that is motivated by the fact that he and Ms. Conner were investigated and had their gate records pulled to determine whether Ms. Conner could perform independent and unbiased oversight of SQN Licensing given

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<sup>125</sup> June 13, 2017, Executive Summary (ECP No. NEC-17-00410) at 3.

<sup>126</sup> In his Appointment Affidavit, Mr. McBrearty subscribed and certified that he understood that his "appointment and subsequent changes in status are subject to the terms and conditions described in this document, and those existing laws and TVA agreements and policies." Appointment Affidavit at 4.



Mr. McBrearty's and Ms. Conner's close personal relationship outside of work.

Ms. Henderson's report to HR was made in good faith and, indeed, mandated by the *TVA Code of Conduct* (at 5). Mr. McBrearty's conduct "is prohibited" and TVA policy requires it "not be tolerated." *Id.*

TVA's *No Fear Executive Policy* also is plain, clear, and unambiguous. It states that "TVA personnel at every level have the right to work in an atmosphere that is free from harassment or illegal discrimination. Accordingly, retaliation against an employee or applicant who exercised his or her rights under any of the federal antidiscrimination or whistleblower protection laws is prohibited." Under the *No Fear Executive Policy*, TVA informs all employees that "TVA encourages employees, applicants, and contractors to raise concerns without fear of retaliation" and that TVA maintains a zero tolerance policy that prohibits retaliation against any employee for reporting matters under this policy or procedure." *No Fear Executive Policy* at 1. Mr. McBrearty's conduct and behavior against Ms. Henderson for raising a concern to HR as to whether Ms. Conner could perform independent and unbiased oversight of SQN Licensing, given Mr. McBrearty's and Ms. Conner's close personal relationship outside of work, violates the *No Fear Executive Policy* for the reasons previously outlined above.

TVA Standard Programs and Processes (TVA-SPP)-11.8.4, Expressing Concerns and Differing Views, also comes into play in this matter. TVA-SPP-11.8.4 states (at 4) "TVA encourages the voluntary expression of concerns and differing views" and that employees may do so "without fear of reprisal" and "[t]he ability to freely express differing views and opinions will enhance employee productivity, observance of standards and promote a safety conscious work environment (SCWE)."

Mr. McBrearty's retaliatory conduct and behavior toward Ms. Henderson for raising a concern to HR as to whether Ms. Conner could perform independent and unbiased oversight of SQN Licensing given Mr. McBrearty's and Ms. Conner's close personal relationship outside of work violates TVA-SPP-11.8.4 (at 5) for the reasons previously outlined above.

"Every supervisor [including Mr. McBrearty] has the responsibility to create an environment in which employees can raise concerns without fear of retaliation. Harassment, intimidation, retaliation, or discrimination will not be tolerated. Any person found guilty of such acts will be subject to disciplinary action, up to and including termination." TVA-SPP-11.8.4 (at 5). It also should be noted that TVA policy obligates TVA management to maintain a workplace environment free of retaliation or reprisals against an employee who in good faith reports actual or suspected violations of laws or ethics requirements as well as for those employees who express differing views and concerns. *TVA Code of Conduct* at 5; TVA-SPP-11.8.4 (at 4-5). TVA management failed to do so here; instead, it allowed harassing and retaliatory conduct and behavior to fester and to continue practically unabated for two years and counting. Just like retaliation itself, the allowance of retaliation—either through inaction or the failure to taken prompt, effective, and adequate corrective action to stop such retaliation—is just as prohibited and must not be tolerated.

#### **D. Disrespectful Conduct**

Mr. McBrearty's intentional, repeated, and serious behavior toward Ms. Henderson also is characterized as disrespectful conduct and, as a manager, Mr. McBrearty is held to a higher standard than other employees. *Ray v. Dep't of the*

*Army*, 97 M.S.P.R. at 101, 136 (2004) ("Furthermore, unlike the appellant in the *Johnson* case on which the administrative judge relied, the appellant in this case was a supervisor, and the agency was therefore entitled to hold the appellant to a higher standard of conduct than other employees.). As discussed on pages 8 through 13 above, the Board has determined that a penalty of range of a 30-day suspension to termination is reasonable and appropriate for an agency to impose, given the particular circumstances of the case, for such conduct.

#### **E. Conclusion**

Based on the foregoing, Ms. Henderson's allegation of harassment and retaliation is substantiated, and Mr. McBrearty's conduct and behavior violated two Federal statutes, a Federal regulation, and three TVA policies.

/s/ John E. Slater

John E. Slater  
Senior Attorney  
Tennessee Valley Authority  
400 West Summit Hill Drive  
Knoxville, Tennessee 37902-1401  
Telephone No. (865) 632-7878  
[jeslater@tva.gov](mailto:jeslater@tva.gov)

Date: August 10, 2018

66641059



18-98

**Checkle, Melanie**

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**From:** Masters, Anthony  
**Sent:** Wednesday, January 23, 2019 5:28 AM  
**To:** Crespo, Manuel; R2Allegations Resource  
**Cc:** Seat, Jamin; Mendez-Gonzalez, Sandra; Ninh, Son; Deschaine, Wesley; Price, Sarah  
**Subject:** RE: 18-98: Notification: Tennessee Valley Authority/Wetzel/4-1760-19-025 \*SENSITIVE INFORMATION\*

I agree.

----- Original Message -----

**From:** "Crespo, Manuel" <Manuel.Crespo@nrc.gov>  
**Date:** Tue, January 22, 2019 3:44 PM -0500  
**To:** R2Allegations Resource <R2Allegations.Resource@nrc.gov>, "Masters, Anthony" <Anthony.Masters@nrc.gov>  
**CC:** "Seat, Jamin" <Jamin.Seat@nrc.gov>, "Mendez-Gonzalez, Sandra" <Sandra.Mendez-Gonzalez@nrc.gov>, "Ninh, Son" <Son.Ninh@nrc.gov>, "Deschaine, Wesley" <Wesley.Deschaine@nrc.gov>, "Price, Sarah" <Sarah.Price@nrc.gov>  
**Subject:** RE: 18-98: Notification: Tennessee Valley Authority/Wetzel/4-1760-19-025 \*SENSITIVE INFORMATION\*

Based on the original OSHA submittal from the CI, it states that, in 2014, the TVA licensing group was chilled under Joe Shea. "Additionally, in 2014, TVA's Employee Concerns Program determined that Mr. Shea created a Chilled Work Environment within the TVA Corporate Licensing organization by the inappropriate manner in which he treated a contract worker."

Based on the age of this "determination" and the fact that NRC inspection of the corporate licensing department since then has not substantiated a chilled work environment, this does not constitute a new concern.

For knowledge management's sake, the "(ID. 16 – 17)" references you see in these legal submittals refer to the pages of the most recently cited reference, instead of listing the same reference document over and over again, they just write "ID."

Hope this helps.  
Manuel Crespo

**From:** R2Allegations Resource  
**Sent:** Friday, January 18, 2019 3:28 PM  
**To:** Masters, Anthony <Anthony.Masters@nrc.gov>  
**Cc:** Seat, Jamin <Jamin.Seat@nrc.gov>; Mendez-Gonzalez, Sandra <Sandra.Mendez-Gonzalez@nrc.gov>; Ninh, Son <Son.Ninh@nrc.gov>; Deschaine, Wesley <Wesley.Deschaine@nrc.gov>; Crespo, Manuel <Manuel.Crespo@nrc.gov>; Price, Sarah <Sarah.Price@nrc.gov>  
**Subject:** 18-98: Notification: Tennessee Valley Authority/Wetzel/4-1760-19-025 \*SENSITIVE INFORMATION\*

FYI – We received the attached amended DOL complaint for allegation 18-98. It mainly documents that the CI was officially terminated (which she made us aware of already). However, I found interesting that the document states that TVA ECP substantiated that Joe Shea had created a CWE within TVA. Not sure what that is all about. Anybody knows what that is referring to? Thanks.

Melanie



**From:** NRC Allegation  
**Sent:** Friday, January 18, 2019 2:01 PM  
**To:** R2Allegations Resource <[R2Allegations.Resource@nrc.gov](mailto:R2Allegations.Resource@nrc.gov)>  
**Subject:** Fw: Notification: Tennessee Valley Authority/Wetzel/4-1760-19-025

I think this is yours.

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**From:** Fehlman, Lauren - OSHA <[LFehlman@DOL.GOV](mailto:LFehlman@DOL.GOV)>  
**Sent:** Thursday, January 17, 2019 10:26 AM  
**To:** NRC Allegation; 'officeofenforcement@hq.doe.gov'  
**Cc:** OSHA.DWPP  
**Subject:** [External\_Sender] Notification: Tennessee Valley Authority/Wetzel/4-1760-19-025

Please find attached notification of an amended complainant regarding the Subject matter filed under the Energy Reorganization Act.

Thank you

Lauren Fehlman, Regional Investigator  
U.S. Department of Labor-OSHA  
2296 Henderson Mill Road, NE, Suite 200  
Atlanta, GA 30345  
404-772-8046  
[Fehlman.lauren@dol.gov](mailto:Fehlman.lauren@dol.gov)

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**Checkle, Melanie**

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**From:** Checkle, Melanie  
**Sent:** Monday, January 14, 2019 1:55 PM  
**To:** Masters, Anthony  
**Cc:** Seat, Jamin; Mendez-Gonzalez, Sandra; Ninh, Son; Crespo, Manuel; Deschaine, Wesley; Price, Sarah  
**Subject:** 18-98 TVA: Current Status with TVA \*SENSITIVE INFO\*

FYI – update from CI. Our file indicates that she's currently working with Cornell to attempt mediation. We'll see if TVA accepts.

Melanie

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**From:** Beth Wetzel [mailto:(b) (7)(C)]  
**Sent:** Monday, January 14, 2019 10:43 AM  
**To:** Checkle, Melanie <Melanie.Checkle@nrc.gov>  
**Subject:** [External\_Sender] Current Status with TVA

Melanie,

I want to keep you informed. Joe Shea and HR called me and officially terminated me this morning, effective today. Joe, again falsely claimed that I created a hostile work environment for my boss, citing that as the reason for my termination. I asked Joe if TVA was aware of my DOL complaint and he said yes.

Beth Wetzel

(b) (7)(C)

**Checkle, Melanie**

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**From:** Seat, Jamin  
**Sent:** Thursday, December 20, 2018 2:37 PM  
**To:** Checkle, Melanie; Masters, Anthony  
**Cc:** Mendez-Gonzalez, Sandra; Ninh, Son; Crespo, Manuel; Price, Sarah; Echavarria, Alejandro; Kontz, Craig  
**Subject:** RE: 18-98 TVA - FW: DOL letter \*SENSITIVE INFORMATION\*

I have reviewed the OSHA complaint. There are no new concerns contained in the document. The CI has communicated all of these concerns to us previously.

**From:** Checkle, Melanie  
**Sent:** Thursday, December 20, 2018 11:17 AM  
**To:** Masters, Anthony <Anthony.Masters@nrc.gov>  
**Cc:** Seat, Jamin <Jamin.Seat@nrc.gov>; Mendez-Gonzalez, Sandra <Sandra.Mendez-Gonzalez@nrc.gov>; Ninh, Son <Son.Ninh@nrc.gov>; Crespo, Manuel <Manuel.Crespo@nrc.gov>; Price, Sarah <Sarah.Price@nrc.gov>; Echavarria, Alejandro <Alejandro.Echavarria@nrc.gov>; Kontz, Craig <Craig.Kontz@nrc.gov>  
**Subject:** 18-98 TVA - FW: DOL letter \*SENSITIVE INFORMATION\*

PB5,

The CI for allegation RII-2018-A-0098 filed a DOL complaint. Attached is what was submitted to DOL. In the submittal, the CI discusses several protected activities. These include (1) the failure of Watts Bar to comply with the NRC's fatigue rule requirements, 10 C.F.R. Part 26; (2) the failure of Sequoyah to comply with the NRC's "Fukushima" requirements; (3) TVA's inadequate response to the NRC's March 23, 2016 Chilled Work Environment Letter; (4) the failure to perform TS Surveillances during extended outages at Watts Bar; and (5) the failure of Browns Ferry to address the valve failures. Please review the attached to determine if we have any new allegations. PA #5 we already entered as allegation RII-2018-A-0118. Based on the write-up, PA#5 looks like we are aware and already addressed via 50.9 violation. The other ones, I'm not sure and may just be background to her discrimination concern but please review and let me know if you believe this may be new concerns or if we are already aware of the validity of these issues. The CI has called Cornell and is now attempting to participate in the ADR program. Thanks.

Melanie

**From:** Beth Wetzel [mailto:(b) (7)(C)]  
**Sent:** Tuesday, December 18, 2018 9:39 AM  
**To:** Checkle, Melanie <Melanie.Checkle@nrc.gov>  
**Cc:** Alan Kabat <kabat@bernabeipllc.com>  
**Subject:** [External\_Sender] DOL letter

Melanie,

I have now filed a complaint with DOL. Below is the letter and attachments that my lawyer sent this morning. I am still interested in entering the ADR process. I called the contact you gave me from Cornell and we spoke last week. I want to continue with early ADR.

I appreciate your assistance in this matter.

Beth Wetzel



**Checkle, Melanie**

18-98

**From:** Checkle, Melanie  
**Sent:** Monday, December 10, 2018 8:34 AM  
**To:** Masters, Anthony  
**Cc:** Price, Sarah; Mendez-Gonzalez, Sandra; Ninh, Son; Seat, Jamin  
**Subject:** 18-98 TVA Update: Mediation \*SENSITIVE INFORMATION\*  
**Attachments:** 2018 12 06 Kabat to TVA.pdf; RE: Mediation

FYI - Update for allegation 18-98. Looks like the CI signed the separation agreement last week but is considering rescinding the agreement and attempting to reach a different agreement with the licensee. TVA is supposed to respond today to the CI (see attached letter). I reminded the CI to call Cornell University if they intend to use the NRC's ADR program. Thanks.

Melanie

**From:** Beth Wetzel [(b) (7)(C)]  
**Sent:** Friday, December 07, 2018 2:55 PM  
**To:** Checkle, Melanie <Melanie.Checkle@nrc.gov>  
**Cc:** Alan Kabat <kabat@bernabeipllc.com>  
**Subject:** [External\_Sender] Mediation

Melanie,  
I spoke with my lawyer. Yes, I would like to go for mediation. Attached is a letter my lawyer sent to TVA yesterday that is fairly comprehensive regarding my position.

Beth Wetzel  
[(b) (7)(C)]

**BERNABEI & KABAT, PLLC**

ATTORNEYS AT LAW

1400 16th STREET, N.W., SUITE 500

WASHINGTON, D.C. 20036-2223

LYNNE BERNABEI

ALAN R. KABAT

PETER M. WHELAN

202.745.1942

FAX: 202.745.2627

WWW.BERNABEIPLLC.COM

KRISTEN SINISI

MICHAEL ELLEMENT

DEVIN WRIGLEY

KAIYA LYONS\*

\*ADMITTED IN MN ONLY

**Privileged and Confidential**  
**For Settlement Purposes Only**

By Email and First Class Mail

December 6, 2018

Joseph Shea  
Vice President, Nuclear Licensing  
jwshea@tva.gov  
Amanda Poland  
Director, Human Resources  
aepoland@tva.gov  
Carla Edmondson  
Management Assistant  
cedmondson@tva.gov  
Tennessee Valley Authority  
1101 Market Street  
Chattanooga, TN 34702-2881

Re: *Beth Wetzel / Tennessee Valley Authority*

Dear Mr. Shea, Ms. Poland, and Ms. Edmondson:

I am writing on behalf of Beth Wetzel. As you know, she signed the severance agreement on December 5, 2018. However, during the period that she has to consider whether to revoke the signature, she has authorized me to renew settlement discussions. Ms. Wetzel is strongly considering whether to revoke the severance agreement and pursue her retaliation claims with both the NRC and the Department of Labor. As I wrote on October 22, her retaliation claims are grounded on the fact that she engaged in protected conduct when she persisted in reporting that TVA needed to bring itself into compliance with critical NRC regulations, including the fatigue rule requirements at Watts Bar 2; the so-called Fukushima requirements at Sequoyah; the failure to identify all NRC commitments in responding to the NRC's March 23, 2016 chilled work environment letter; and the failure to perform TS (Technical Specification) Surveillances during the outages at Watts Bar.

In addition to these disclosures identified in my prior correspondence, Ms. Wetzel has also made protected disclosures regarding (1) the failure at Browns Ferry to identify, repair or replace, in accordance with the BWR Owners Group guidance, all the Anchor Darling double-disc gate valves (DDGV) to address the wedge-pin and stem separation failures (NRC IN 2017-03), which had resulted in an NRC red finding several years ago; and (2) the failure of Browns Ferry to provide information required for an NRC submission due on December 31, 2017 regarding addressing the valve failures (an issue that originally arose at the LaSalle plant and had to be addressed by TVA's plants). These disclosures were made to senior TVA management, including Ms. Henderson, who reacted angrily when Ms. Wetzel reported that TVA engineers were not addressing the DDGV issue.

Each of these protected disclosures reflected negatively on senior management, specifically on Erin Henderson. Ms. Henderson then retaliated against Ms. Wetzel – just as she has done for several other TVA employees who engaged in protected conduct – by initiating an investigation of Ms. Wetzel and by improbably claiming that she (Henderson) was the victim of retaliation, when she was actually retaliating against Ms. Wetzel. This is consistent with the NRC's recent letter related to chilled work environment that it sent to TVA. *See* NRC to J.W. Shea, EA-17-022, EA-16-061 (Aug. 17, 2018). Although the letter focused on the chilled work environment at Watts Bar, its findings are equally applicable at the corporate headquarters.

Indeed, when Ms. Poland finally told Ms. Wetzel the “two statutes” that her performance appraisal says she violated, Ms. Poland responded that the statutes were the Whistleblower Protection Act and Section 211 of the Energy Reorganization Act. This is absurd and would not survive any scrutiny by the NRC or the judicial system. To be clear, it was Ms. Henderson who repeatedly violated those statutes when she initiated investigations of Ms. Wetzel and several others, and took or threatened to take adverse employment action. During the investigation, Ms. Wetzel specifically told the investigator from TVA OGC that she believed Ms. Henderson was retaliating against her. We believe that discovery will show Ms. Henderson's direct involvement with the retaliatory investigation, the decision to place Ms. Wetzel on paid administrative leave, and the decision to force her out of TVA.

It is settled law that placing an employee on paid administrative leave is an adverse employment action, even if the employee does not face an immediate change in compensation, because being on paid leave precludes the employee from achieving her performance objectives, networking with colleagues, seeking promotional opportunities, or otherwise advancing her career. *See, e.g., Vannoy v. Celanese Corp.*, ARB Case No. 09-118, at 14, ALJ No. 2008-SOX-064 (ARB Sept. 28, 2011) (“Although the ALJ did not address Vannoy's claim that his



Joseph Shea  
Amanda Poland  
Carla Edmondson  
December 6, 2018  
Page 3 of 3

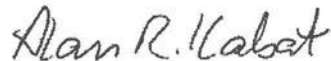
placement on administrative leave constituted adverse action ... we note that even paid administrative leave may be considered an adverse action under certain circumstances.”) (citing *Van Der Meer v. Western Ky. Univ.*, ARB No. 97-078, ALJ No. 1995-ERA-038, slip op. at 4-5 (ARB Apr. 20, 1998)); *Smith v. Western Sales & Testing*, ARB No. 02-080, at 7, ALJ No. 01-CAA-17 (ARB Mar. 31, 2004) (“The ALJ also found that WST subjected Smith to adverse action by placing him in a ‘cooling off’ period because his ‘terms, conditions or privileges of employment’ were altered by his exclusion from the job site.”); *id.* at 13 (“We agree with the ALJ’s holding that WST violated the CAA by sending him home for what WST contends was a ‘cooling off’ period immediately following the May 2, 2001 inspection.”). Here, TVA took an adverse personnel action when it placed Ms. Wetzel on paid leave, thereby precluding her from working at NEI or using the detail to seek comparable employment at NEI.

Ms. Wetzel intended to work for another three years in the industry before retiring, so she has authorized me to counteroffer with either (1) TVA continues to pay Ms. Wetzel for the next three years, and allow her to continue her detail at NEI for that period; or (2) TVA will pay her a settlement of \$750,000, equivalent to three years of salary and benefits.

As time is of the essence, I would appreciate your response by 12 noon on Monday, December 10, 2018. Alternatively, if TVA would agree to extend the revocation period in Ms. Wetzel’s severance agreement, then we can discuss this over the next week.

Thank you for your consideration of this request. I can be reached at the above address or by email (Kabat@bernabeipllc.com).

Sincerely,



Alan R. Kabat

cc: Ms. Beth Wetzel  
David Czufin, Senior Vice President Engineering and Operations Support  
Michael Balduzzi, Chief Nuclear Officer  
Timothy Rausch, Chief Nuclear Officer

## Checkle, Melanie

---

**From:** Checkle, Melanie  
**Sent:** Monday, December 10, 2018 8:19 AM  
**To:** Beth Wetzel  
**Cc:** Alan Kabat  
**Subject:** RE: Mediation

Thanks Beth. If you would like to use the mediation services (ADR program) provided by the NRC, you or your attorney need to contact Cornell's Institute of Conflict Resolution directly. Cornell's ICR runs the ADR program and would be in charge of scheduling the mediation, etc. Below is the information we provided to you via letter dated November 1, 2018, regarding the mediation process for your reference. If you prefer to negotiate with TVA directly, without the NRC's ADR program assistance, please note the highlighted sections below. Please let me know how you intend to proceed. Thanks.

*Melanie M. Checkle*

Senior Allegation Coordinator  
Enforcement and Investigation Coordination Staff  
U.S. Nuclear Regulatory Commission  
☎W: 404.997.4426 | 📠F: 404.997.4903 | ✉E: [melanie.checkle@nrc.gov](mailto:melanie.checkle@nrc.gov)

\*Please be advised that the NRC cannot protect the information during transmission on the Internet and there is a possibility that someone could read your response while it is in transit.\*

\*\*\*\*As an alternative to an investigation of your discrimination concern by OI, you may choose to participate in the NRC's alternative dispute resolution (ADR) program, which offers mediation in the handling of a complaint of discrimination. Mediation is a voluntary process where two parties, you and your employer, use an unbiased, neutral individual, or mediator, in an attempt to resolve and settle your complaint. If such an agreement is reached, the NRC will close your discrimination complaint upon settlement and will not perform an investigation. If a settlement is not reached with your employer, the NRC (OI) may initiate an investigation into your complaint of discrimination. As mentioned above, the NRC's ADR program is voluntary, and any participant may end the mediation at any time. You should be aware that the NRC's ADR program allows the licensee to submit any negotiated settlement to the NRC for review and acceptance as an equivalent to an agreement negotiated through NRC-sponsored mediation, and this may occur with or without your consent. Therefore, any settlement you reach with the licensee, which is submitted to NRC by the licensee and subsequently approved by the NRC will not result in an NRC investigation of your discrimination complaint. Additional information on this program is included in the attached brochure, "NRC's Pre-Investigation ADR Program" and more detailed information on the program can be found on our website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>.

The NRC has asked Cornell University's Institute on Conflict Resolution (ICR) to aid you and your employer in resolving your discrimination concern through ADR. If you choose to participate in the NRC's ADR program, you must contact ICR directly at 1-877-733-9415 (toll free). We request that you make and inform us of your decision regarding your interest in attempting mediation via the ADR program as soon as possible or at least within [ten] days of the date you receive this letter. You may contact ICR to discuss ADR in general, the NRC's ADR program, and any other information you are interested in related to resolving your discrimination concern. If you and your employer choose to participate in the ADR program, ICR will assist you in the selection of a mediator who would meet with you and your employer in an attempt to settle your complaint. If you select a mediator through ICR, there will be no charge to you or your employer for the mediator's services.



*The NRC notes that employers are encouraged to develop similar dispute resolution processes internal to their company for use in conjunction with their own employee concerns programs. If you resolve and settle your discrimination concern with your employer your employer may voluntarily report the settlement to the NRC. If NRC is notified of an internal settlement before an NRC OI investigation is initiated, the NRC will request a copy of such a settlement agreement (when completed, if negotiations are ongoing) from the employer and review it to determine if it contains any restrictive language in violation of NRC employee protection regulations. If no such restrictive language exists, in accordance with agency policy, NRC will close the discrimination complaint and will not perform an investigation. \*\*\*\**

---

**From:** Beth Wetzel [mailto:(b) (7)(C)]  
**Sent:** Friday, December 07, 2018 2:55 PM  
**To:** Checkle, Melanie <Melanie.Checkle@nrc.gov>  
**Cc:** Alan Kabat <kabat@bernabeipllc.com>  
**Subject:** [External\_Sender] Mediation

Melanie,  
I spoke with my lawyer. Yes, I would like to go for mediation. Attached is a letter my lawyer sent to TVA yesterday that is fairly comprehensive regarding my position.

Beth Wetzel  
(b) (7)(C)



**Checkle, Melanie**

18-98

**From:** Mendez-Gonzalez, Sandra  
**Sent:** Monday, November 05, 2018 3:14 PM  
**To:** Coleman, Nicole; Price, Sarah  
**Cc:** Checkle, Melanie; Kowal, Mark  
**Subject:** RE: 18-98 TVA Corporate Email from CI - FW: TVA letter \*SENSITIVE INFORMATION\*

I have not received any communication after the ADR offer was made. The next step is, to call her if she does not contact us in 10 days.

Sandra L. Mendez-Gonzalez

Allegation Coordinator – RII | ORA | Enforcement and Investigation Coordination Staff  
D: 404.997.4707 | F: 404.997.4903 | E: [slm4@nrc.gov](mailto:slm4@nrc.gov)

Visit the Allegations [Sharepoint Page](#) for forms and helpful links.

\*\*\*\*\*

\*If this email contains sensitive allegation information, please delete when no longer needed.\*

---

**From:** Coleman, Nicole  
**Sent:** Monday, November 05, 2018 3:12 PM  
**To:** Mendez-Gonzalez, Sandra <[Sandra.Mendez-Gonzalez@nrc.gov](mailto:Sandra.Mendez-Gonzalez@nrc.gov)>; Price, Sarah <[Sarah.Price@nrc.gov](mailto:Sarah.Price@nrc.gov)>  
**Cc:** Checkle, Melanie <[Melanie.Checkle@nrc.gov](mailto:Melanie.Checkle@nrc.gov)>; Kowal, Mark <[Mark.Kowal@nrc.gov](mailto:Mark.Kowal@nrc.gov)>  
**Subject:** RE: 18-98 TVA Corporate Email from CI - FW: TVA letter \*SENSITIVE INFORMATION\*

Thanks.

Have you all communicated with the CI since you emailed me last week? What are the next steps for the NRC? The CI say he plans to contact Cornell?

Nicole

---

**From:** Mendez-Gonzalez, Sandra  
**Sent:** Monday, November 05, 2018 8:25 AM  
**To:** Coleman, Nicole <[Nicole.Coleman@nrc.gov](mailto:Nicole.Coleman@nrc.gov)>; Price, Sarah <[Sarah.Price@nrc.gov](mailto:Sarah.Price@nrc.gov)>  
**Cc:** Checkle, Melanie <[Melanie.Checkle@nrc.gov](mailto:Melanie.Checkle@nrc.gov)>; Kowal, Mark <[Mark.Kowal@nrc.gov](mailto:Mark.Kowal@nrc.gov)>  
**Subject:** RE: 18-98 TVA Corporate Email from CI - FW: TVA letter \*SENSITIVE INFORMATION\*

We just offered ADR to this case (see attached). Our review is mainly as initial documentation provided by the CI.

Sandra L. Mendez-Gonzalez

Allegation Coordinator – RII | ORA | Enforcement and Investigation Coordination Staff  
D: 404.997.4707 | F: 404.997.4903 | E: [slm4@nrc.gov](mailto:slm4@nrc.gov)

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\*\*\*\*\*

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**From:** Checkle, Melanie

**Sent:** Wednesday, October 31, 2018 10:31 AM

**To:** Masters, Anthony <Anthony.Masters@nrc.gov>

**Cc:** Seat, Jamin <Jamin.Seat@nrc.gov>; Ninh, Son <Son.Ninh@nrc.gov>; Mendez-Gonzalez, Sandra <Sandra.Mendez-Gonzalez@nrc.gov>; Anderson, Denise <Denise.Anderson@nrc.gov>; Price, Sarah <Sarah.Price@nrc.gov>

**Subject:** 18-98 TVA Corporate Email from CI - FW: TVA letter \*SENSITIVE INFORMATION\*

FYI – no new allegation, just additional information on the discrimination concern. Attached is the no fault separation letter TVA proposed the CI sign.

*Melanie M. Checkle*

Senior Allegation Coordinator

Enforcement and Investigation Coordination Staff

U.S. Nuclear Regulatory Commission

W: 404.997.4426 | F: 404.997.4903 | E: [melanie.checkle@nrc.gov](mailto:melanie.checkle@nrc.gov)

Visit the [Allegations Sharepoint](#) page for forms and helpful links.

\*If this email contains sensitive allegation information, please delete when no longer needed.\*

**From:** Beth Wetzel [mailto:(b) (7)(C)]

**Sent:** Wednesday, October 31, 2018 9:30 AM

**To:** Checkle, Melanie <Melanie.Checkle@nrc.gov>

**Subject:** [External\_Sender] TVA letter

Melanie,

Attached is the letter Joe handed me at a meeting on October 25. It is further intimidation and retaliation for raising compliance and safety issues to my management. (In an earlier letter from my lawyer, we cited 4 safety concerns, as previous examples that I raised to my management) TVA is holding me hostage to the fact that I have 6 months until my minimum retirement age. If I retire before that date, I will lose a significant amount of money for the rest of my life. TVA wants me to sign away my right to raise safety complaints, stating I've informed TVA of all safety issues before I leave. Then TVA will give me a deal to credit federal employment for the next 6 months. This is intimidation and extortion to keep my mouth shut.

I will continue to keep you informed as I move forward.

Beth

(b) (7)(C)



18-98

**Mendez-Gonzalez, Sandra**

---

**From:** Mendez-Gonzalez, Sandra  
**Sent:** Thursday, November 01, 2018 8:56 AM  
**To:** OEADR Resource  
**Cc:** Coleman, Nicole; Harrison, John  
**Subject:** RE: RII-2018-A-0098 - ADR offered against TVA \*SENSITIVE INFO\*  
**Attachments:** 18-098 ARB SUM 10-23-18.docx; 18-098 ARF - TVA Corporate.docx; Allegation Report RII-2018-A-0098.pdf

FYI – we offered ADR for the subject case. The allegation is against TVA Corporate Office. Attached are the pertinent documents. Let us know if you need anything else.

Sincerely,

***Sandra L. Mendez-Gonzalez***

Allegation Coordinator – RII | ORA | Enforcement and Investigation Coordination Staff

Visit the [Allegations Sharepoint Page](#) for forms and helpful links.

☎D: 404.997.4707 | ☎F: 404.997.4903 | ✉: [slm4@nrc.gov](mailto:slm4@nrc.gov)

\*\*\*\*\*

\*If this email contains sensitive allegation information, please delete when no longer needed.\*

## Checkle, Melanie

18-98

**From:** Checkle, Melanie  
**Sent:** Wednesday, October 31, 2018 10:31 AM  
**To:** Masters, Anthony  
**Cc:** Seat, Jamin; Ninh, Son; Mendez-Gonzalez, Sandra; Anderson, Denise; Price, Sarah  
**Subject:** 18-98 TVA Corporate Email from CI - FW: TVA letter \*SENSITIVE INFORMATION\*  
**Attachments:** TVA Oct25 letter.jpg; TVA Oct25 letter p2.jpg

FYI – no new allegation, just additional information on the discrimination concern. Attached is the no fault separation letter TVA proposed the CI sign.

*Melanie M. Checkle*

Senior Allegation Coordinator  
Enforcement and Investigation Coordination Staff  
U.S. Nuclear Regulatory Commission  
W: 404.997.4426 | F: 404.997.4903 | E: [melanie.checkle@nrc.gov](mailto:melanie.checkle@nrc.gov)  
Visit the [Allegations Sharepoint](#) page for forms and helpful links.

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---

**From:** Beth Wetzel [mailto:(b) (7)(C)]  
**Sent:** Wednesday, October 31, 2018 9:30 AM  
**To:** Checkle, Melanie <Melanie.Checkle@nrc.gov>  
**Subject:** [External\_Sender] TVA letter

Melanie,  
Attached is the letter Joe handed me at a meeting on October 25. It is further intimidation and retaliation for raising compliance and safety issues to my management. (In an earlier letter from my lawyer, we cited 4 safety concerns, as previous examples that I raised to my management) TVA is holding me hostage to the fact that I have 6 months until my minimum retirement age. If I retire before that date, I will lose a significant amount of money for the rest of my life. TVA wants me to sign away my right to raise safety complaints, stating I've informed TVA of all safety issues before I leave. Then TVA will give me a deal to credit federal employment for the next 6 months. This is intimidation and extortion to keep my mouth shut.

I will continue to keep you informed as I move forward.

Beth  
(b) (7)(C)





Tennessee Valley Authority, 1101 Market Street, Chattanooga, Tennessee 37402-2601

October 25, 2018

Beth A. Wetzel  
[REDACTED]

Dear Ms. Wetzel:

This is to confirm the understanding that was reached regarding your employment with TVA. You are voluntarily leaving your TVA position of Manager, Regulatory Programs, and resigning from TVA. As part of this agreement, you will be placed in non-work, non-pay status effective January 1, 2019. Your resignation is irrevocable as of the date of your signature below, subject to the cancellation provision described below, and will become effective no later than March 23, 2019.

TVA accepts your resignation and appreciates your valuable service during your tenure with TVA. You will be on non-work, paid status until December 31, 2018. You will be on non-work, non-paid status starting January 1, 2019 through the effective date of this agreement. In addition, in exchange for the commitments made by you herein, and contingent there upon, TVA agrees to make a payment to you in the amount of \$41,500 less applicable taxes and withholdings. This amount will be paid to you in a single lump sum payment within 30 days of the effective date of your resignation and, except as set forth in this letter, extinguish any and all compensation and benefits obligations TVA may owe you.

Your resignation will not affect your rights to pension benefits in accordance with the rules of the Federal Employees Retirement System, and as a result of, your period of service as a federal employee.

In accordance with the eligibility requirement governing the Winning Performance Team Incentive Plan, since you will not be employed with TVA on September 29, 2019, you will not be eligible to receive an annual incentive award for Fiscal Year 2019 under the Plan.

Because of the nature of your position, you have had access to business sensitive information. You agree, except as required by law, not to disclose or use TVA business sensitive information in the future. You also agree that you will make no comments or statements adverse or critical of TVA, its management, its employees, or any of its programs.

You agree that you understand the provisions of this agreement and that you voluntarily enter into it and accept it as full and final resolution of all matters related to your TVA employment, and you expressly release and waive any monetary claims and causes of action of which you are aware or would have been aware with the exercise of due diligence against TVA, its directors, officers, agents, or employees, arising out of your employment, this resignation, or any TVA action in connection with this resignation, including any claims under the Age Discrimination in Employment Act and Title VII of the Civil Rights Act, but not including any claims under the Federal Employees Compensation Act. TVA agrees to continue to defend and indemnify you against claims that result from your performance of your TVA duties prior to the effective date of your resignation under the terms set out in TVA-SPP-25.1 Legal Representation.



Beth A. Wetzel  
Page 2  
October 25, 2018

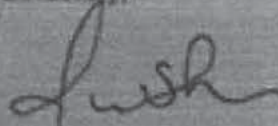
You further agree to treat this matter as confidential and not to discuss the terms of your resignation except with your family and financial advisor, or as required by law. Nothing in this agreement is intended to prevent, restrict, or otherwise discourage you from providing the Office of the Inspector General (OIG) with any information or from responding to requests for information from the OIG.

Nothing in this agreement is intended to prevent, restrict, or otherwise discourage you from providing TVA or the Nuclear Regulatory Commission (NRC) with any information about actual or potential nuclear safety concerns or violations, or from you responding to requests for information from the NRC. Section 211 of the Energy Reorganization Act (ERA) and NRC regulations (10 CFR 50.7) also protect employees from any adverse employment action as a result of their engaging in such protected activities. By your signature below, you confirm that you have already informed TVA management of any nuclear safety concerns you may have in connection with the construction, maintenance, operation, and security of any TVA facilities, including nuclear plants. You also confirm that no adverse employment action is being taken, in any part, as a result of your engaging in protected activities as defined in Section 211 of the ERA or NRC regulations.

You are advised to consult an attorney before signing this agreement. You may have up to 21 days to consider the agreement before you sign it, but you may sign it at any time during the 21 days. If you sign the agreement, you may cancel it within seven days. Any such cancellation must be in writing and signed by you, and must be delivered to me by close of business on the seventh calendar day after you sign the agreement. If you do not cancel the agreement, the agreement will become effective on the eighth calendar day after the date of your signature below. If you cancel the agreement, it will become null and void and TVA will not implement any of its terms.

If the provisions which I have set forth above accurately describe the terms of our agreement, please sign this letter at the place indicated below and return it to me.

Sincerely,



Joseph W. Shea  
Vice President, Nuclear Regulatory Affairs & Support Services

\_\_\_\_\_  
Beth A. Wetzel

\_\_\_\_\_  
Date

cc: Susan E. Collins, LP6  
Amanda D. Johns, LP3-C  
Deborah A. Kearnaghan, LP3-C  
Emily B. Sweetland, WT 4C-K  
Sarah T. Walker, LP3-C



**From:** Checkle, Melanie  
**Sent:** Thursday, October 25, 2018 11:27 AM  
**To:** Masters, Anthony  
**Cc:** Mendez-Gonzalez, Sandra; Anderson, Denise; Seat, Jamin; Ninh, Son  
**Subject:** 18-98 Call Documentation \*SENSITIVE INFORMATION\*

This email is to document the highlights from the call with Beth Wetzel, CI for allegation 18-98, on 10/23/18. Participating on the call were R. Taylor, R. Sigmon and me. The purpose of the call was mainly for DRP to conduct a SCWE interview as part of the inspection of the Licensing Department at the TVA corporate offices. I'm only documenting the information that is pertinent to the allegation:

- The CI has obtained legal counsel. She tried to hire B. Garde, but Ms. Garde had a conflict and could not represent her. She hired the Lynne Bernabei and Alan Kabat firm instead. Her counsel is Mr. Kabat. The CI indicated that she preferred we communicate with her only. The CI was informed that if we ever need to discuss her case with her counsel, that we needed permission from her first.
- The CI is still on paid leave. She was meeting today (10/25/18) with J. Shea and TVA HR to present her rebuttal to the TVA OGC findings that she had created a harassing work environment for her supervisor, E. Henderson. The CI stated that her rebuttal is documented in a letter. We asked the CI to provide a copy of the rebuttal letter. The CI stated that she would ask her legal counsel and if ok, she would provide.
- The CI stated that she was still working on her timeline of events for the NRC. However, most of her notes are in Washington DC due to her recent rotation to NEI.
- The CI stated that any technical/regulatory compliance issues she discusses in any documentation to be provided to the NRC, are not meant to be separate technical concerns. These are just examples of the work environment or protected activities. The CI is not expecting a response on these issues.

Thanks.

*Melanie M. Checkle*

Senior Allegation Coordinator

Enforcement and Investigation Coordination Staff

U.S. Nuclear Regulatory Commission

☎W: 404.997.4426 | 📠F: 404.997.4903 | ✉E: [melanie.checkle@nrc.gov](mailto:melanie.checkle@nrc.gov)

Visit the [Allegations Sharepoint](#) page for forms and helpful links.

\*If this email contains sensitive allegation information, please delete when no longer needed.\*

**From:** Masters, Anthony  
**Sent:** Tuesday, October 16, 2018 10:19 AM  
**To:** Mendez-Gonzalez, Sandra  
**Cc:** Checkle, Melanie; Price, Sarah; Kowal, Mark; Munday, Joel; Seat, Jamin  
**Subject:** RE: Call with Billie Gard.  
**Attachments:** FW: TVA "chilling effect" assessment

Call log –

After getting an email forwarded to me from Lisamarie from Billie Garde, I called Lisamarie. She stated I should call Billie about her email she sent her. I called Billie and said I was calling in regard to an email she sent Lisamarie. She told me a lot of what is in her email (attached). I asked if she would give the name of the individual she was talking about. She thought about and said she wanted to confirm with her if it was okay to provide her name to me. She said that we should already know who it is because she said she left a message with Joel Munday about this. I told her that if this person left a message with Joel Munday we would have that information, but I was interested in finding out if the person she was referring in fact left a message with him. She said she would contact her and confirm that she did leave a message and if for some reason she was not able to leave a message, she would ask if she could give us her name and call us back with that information. Otherwise she said she did not plan to contact me if she confirms that she left a message with Joel since we would already have that information.

**Anthony D. Masters, PE**  
Chief, Reactor Projects Branch 5  
Division Reactor Projects (DRP)  
U.S. Nuclear Regulatory Commission  
Region II - Atlanta  
(404) 997 - 4465 (office phone)  
(770) 846 - 4740 (cell phone)  
(404) 997 - 4905 (fax)  
[Anthony.Masters@nrc.gov](mailto:Anthony.Masters@nrc.gov)

**From:** Mendez-Gonzalez, Sandra  
**Sent:** Tuesday, October 16, 2018 9:58 AM  
**To:** Masters, Anthony <[Anthony.Masters@nrc.gov](mailto:Anthony.Masters@nrc.gov)>  
**Subject:** Call with Billie Gard.

Anthony,

If possible could you attempt to transcribe the conversation with Billie Grade in an email?

At this point we want to make it clear that Billie started the conversation about her client calling Joel Munday and leaving a voicemail. Also, did we acknowledge that a her called Joel and left a VM or we stated that is someone call the NRC and left a VM we will follow our process? Those are the things I wanted to clarify.

***Sandra L. Mendez-Gonzalez***

Allegation Coordinator – RII | ORA | Enforcement and Investigation Coordination Staff

Visit the Allegations [Sharepoint Page](#) for forms and helpful links.



**Checkle, Melanie**

---

**From:** Seat, Jamin  
**Sent:** Tuesday, October 16, 2018 6:28 AM  
**To:** Checkle, Melanie; Masters, Anthony  
**Subject:** RE: TVA "chilling effect" assessment

Agreed. I see multiple examples of raising regulatory concerns to her management and writing a CR/CRs about a regulatory concern.

**From:** Checkle, Melanie  
**Sent:** Monday, October 15, 2018 6:30 PM  
**To:** Masters, Anthony <Anthony.Masters@nrc.gov>  
**Cc:** Seat, Jamin <Jamin.Seat@nrc.gov>  
**Subject:** RE: TVA "chilling effect" assessment

From 17-114

Thank you for the information. Attached is the document the CI was referring to during the call and our review of the information at the time. I did a quick review and I'm pretty sure she has protected activity.

***Melanie M. Checkle***

Senior Allegation Coordinator  
 Enforcement and Investigation Coordination Staff  
 U.S. Nuclear Regulatory Commission  
 W: 404.997.4426 | F: 404.997.4903 | E: [melanie.checkle@nrc.gov](mailto:melanie.checkle@nrc.gov)  
 Visit the [Allegations Sharepoint](#) page for forms and helpful links.

\*If this email contains sensitive allegation information, please delete when no longer needed.\*

**From:** Masters, Anthony  
**Sent:** Monday, October 15, 2018 3:56 PM  
**To:** Taylor, Ryan <Ryan.Taylor@nrc.gov>; Sigmon, Rebecca <Rebecca.Sigmon@nrc.gov>  
**Cc:** Seat, Jamin <Jamin.Seat@nrc.gov>; Checkle, Melanie <Melanie.Checkle@nrc.gov>  
**Subject:** FW: TVA "chilling effect" assessment

FYI – we believe the person that the attorney is referring to is the same person that called and left a voicemail message with Joel, but I would not provide any name and neither would the attorney. But the attorney was going to contact their client and confirm that the message to and get permission from them to give us the name as well.

**From:** Masters, Anthony  
**Sent:** Monday, October 15, 2018 3:45 PM  
**To:** 'bpgarde@cliffordgarde.com' <bpgarde@cliffordgarde.com>  
**Cc:** Jarriel, Lisamarie <Lisamarie.Jarriel@nrc.gov>  
**Subject:** RE: TVA "chilling effect" assessment

Following up on my call with you. I understand that if you find out the TVA employee did not contact the NRC today, then you will provide me that name and contact information so we can ensure we have the right population to interview and sample.

Thank you,  
**Anthony D. Masters, PE**

Chief, Reactor Projects Branch 5  
Division Reactor Projects (DRP)  
U.S. Nuclear Regulatory Commission  
Region II - Atlanta  
(404) 997 - 4465 (office phone)  
(770) 846 - 4740 (cell phone)  
(404) 997 - 4905 (fax)  
[Anthony.Masters@nrc.gov](mailto:Anthony.Masters@nrc.gov)

---

**From:** Billie Garde [<mailto:bpgarde@cliffordgarde.com>]  
**Sent:** Monday, October 15, 2018 12:22 PM  
**To:** Jarriel, Lisamarie <[Lisamarie.Jarriel@nrc.gov](mailto:Lisamarie.Jarriel@nrc.gov)>  
**Subject:** [External\_Sender] TVA "chilling effect" assessment

Lisa, I have been contacted by a TVA employee who was placed on leave today and told they have a choice of a settlement or being terminated. It is my understanding that the entire department this employee works in is being scheduled for interviews by the NRC team, starting tomorrow. Based on what I have been told it sounds like blatant retaliation for this employee's cooperation with an OGC investigation, and a dysfunctional work environment. I do not want the team to do these interviews, and THEN learn that there is a termination that I am alleging is retaliatory.....I am not happy about this. Joe Shea knows better and this is OUTRAGEOUS! I am not sure who is the head of the team, but can you get a message to them to call me to ensure that this employee is interviewed. I am not sure whether the other department employees are aware of what is going on, and how that would influence their responses about whether there is a "chilling effect" within the department. Billie

Clifford & Garde,LLP  
1850 M Street, NW Suite 1060  
Washington, D.C. 20036  
(202) 280-6116 direct  
(202) 289-8992 fax  
(202) 255-9670 cell

*"The only thing necessary for the triumph of evil is for good men to do nothing."* Edmund Burke



### Summary of FY 2016/2017 Environment for me in CNL:

In early 2015, during a 9-box review meeting (management team rates managers on skills and potential), Joe Shea (Licensing VP) asked Corporate Licensing managers their opinion on Site Licensing Managers readiness for assuming a Corporate Licensing Manager position. Erin was discussed as being ready. Ed Schrull and I did not respond, but Joe insisted on hearing his managers' opinions, so reluctantly, I said Erin does not have enough licensing/regulatory experience to be a Senior Program Manager in our group (8 years minimum). We just demoted someone for not having the required years of experience, I cautioned that we should be careful and not hire someone to supervise people who is not qualified to do the job.

A few months later, Erin hired into Corporate Licensing to be my boss when she didn't meet the minimum qualifications to be a Senior Program Manager or even Program Manager reporting to me. I was later informed that she had planned to immediately put me on a Performance Improvement Plan (PIP) (widely used as first step towards firing) as soon as she became my boss. She was not familiar with my performance, but was outwardly hostile to me. Instead of being put on a PIP, Joe, who knew I was a solid performer gave me a favorable performance review.

I took Erin's direction, as my new boss, and was respectful and positive about her to the rest of the group, especially the individual contributors. Erin was critical of everything I did and assigned me a lot of additional work. Then she reorganized very quickly, adding a new manager position reporting to her and taking me from 6 direct reports to 4 direct reports. Typically, reorgs take months; she reorganized CNL within weeks. She was setting me up to fail. Fred Mashburn, my senior, strongest performer retired and I was not permitted to backfill his position, so I soon had only 3 direct reports.

Before retiring, Fred complained to Joe about Erin's abusive actions and warned him how bad the CNL work environment was becoming. Fred also shared with me that spoke to ECP about Erin's actions. Fred let it be known that he would like to come back as a retiree for part time work, but he was not invited back. I made recommendations when Fred's skills could be used with 35 years of TVA experience, most of it in Licensing. Instead of bringing Fred in, much more costly contractors were hired as staff augmentation to support our many regulatory performance problems. Mike McBrearty later said that Erin would not hire Fred because of the feedback he gave regarding Erin's negative impact on our work environment.

During a Management offsite meeting, soon after Erin came to Corporate, when the other managers left the room on break, Erin told me about a one-on-one she had with Geoff Cook. She said Geoff told her no one thought she was qualified for the job and everyone hated her. She said everyone thought she got the job because her my dad is friends with Chip Pardee (the COO). She said, "I only know of 3 people who hate me." I was astonished at attitude and tone towards me, as soon as the other managers left the room. I took this as a threat, brushed it off and changed the subject.

I don't know if Erin's father is friends with the former COO, but she clearly has high connections and has been given positions and opportunities that anyone with her experience would not have otherwise received. She came to TVA 6 years ago, was approximately 29 years old and had perhaps at most 2 years nuclear experience at Salem/Hope Creek in the Chemistry Dept. Erin was hired into the Bellefonte Licensing Manager position, went on an international trip to Asia with TVA VPs, moved to the Watts Bar PI Manager position, then sent to SRO Cert Class (many wait years to go to Cert class) where she



apparently struggled to pass, then hired into Sequoyah Site Licensing Manager position and in 2016 became my boss. Erin has been given free rein to abuse personnel who report to her. I've been interviewed by ECP multiple times on complaints related to Erin. She has a pattern of controlling people who report to her, including firing a woman in the Watts Bar PI Dept; putting a woman with 25+ years TVA Engineering experience on a PIP and moving her out of Sequoyah Licensing; putting Zachary Kitts (a good performer who previously worked for me at Sequoyah) on a PIP and making him sick with an ulcer; placing Michelle Connor on a PIP and physically moving her out of CNL in a very public and demeaning manner; and creating a hostile work environment for Mike McBrearty the Sequoyah Site Licensing Manager, who didn't even report to her.

During a CFC lunch, Erin announced to a small group where I was her only direct report present, "People may not realize it, but we can lower managers Winning for Performance (WFP) this year." Again, another threat, this time stating how she could negatively impact my compensation.

Erin rated me as "off-track" in my 2016 midyear performance review, a few months after I received a good performance review. She held monthly "skip level" meetings with all the individual contributors in CNL, gathering information about their bosses, asking leading questions and twisting words to use as negative feedback during one-on-ones with their supervisors. This is typical behavior for her, playing people off of each other.

She directed Joe to have skip level meetings (something new for him), where it became clear that he reported what was said back to her. I had a skip level meeting with Joe and told him how Erin was being abusive and I guessed it went back to our 9-box review months ago when I pointed out to him she did not have enough experience for a position in CNL. He snapped: "Do you think I'm such a poor manager that I would hire a manager that is "vindictive"?" I told Joe that I respected him very much, but Erin had a very different tact with those above her vs. those reporting to her. After that meeting with Joe, Erin was obviously of my complaint to Joe and I knew I could no longer talk to my management chain without repercussions. She piled on the work, setting me up for failure with not enough resources to meet the constantly expanding expectations.

Safety Issue: Around this timeframe...Watts Bar 2 (WBN2) had continued to redefine 10 CFR 26 (fatigue rule) requirements for plants. Joe Callie and Gordon Arent wrote a white paper evaluating fatigue rule requirements for construction plants that was rewritten multiple times over 2-3 years to reinterpret Part 26 and further relax overtime. The TVA Fatigue Rule SME reported to me (Jason Castro). An allegation was submitted re: WBN2 not meeting fatigue rule. Jason Castro and others talked about WBN2 atmosphere being production over safety. Joe Shea directed me to tell Jason to write an interpretation of fatigue rule and "push it as far as he could". I gave this instruction to Jason, but also told him to write down the interpretation he was comfortable with. Jason participated in telecoms and wrote his position, but could not define the requirements more loosely. Jason thought WBN2 was already violating fatigue rule requirements. Jason told me he wasn't invited to any more phone calls and didn't think Paul Simmons would ever hire him again. (Jason felt that he ruined his chances for potential positions at WBN based on his knowledge of the fatigue rule regulations and WBN2 not meeting those regulations).

I gave Emerging Regulatory Issues briefings to other managers. Erin purposely sought feedback on my performance from those that managers that I briefed and gave me negative feedback on my



performance. Many of these briefings, I thought went well, but Erin criticized me referencing feedback from others. She asked Marie Gillman (General Manager of Projects) how I did on one of my briefings and Erin told me Marie said I did not do well. I followed up with Marie to see how I could have briefed better. Marie told me the opposite the briefing was great. Erin repeatedly misrepresents other people's positions or encourages them to be critical of people she has targeted.

Erin had negatively impacted my reputation and career within TVA. I was afraid that she would start negatively impacting my professional reputation in the relatively small nuclear industry and hurt my chances of employment outside of TVA.

Joe directed his managers to take leadership positions within the industry. I was nominated RUG II Chair as Joe directed us to take leadership positions in the industry. All RUG chairs attend the senior level Regulatory Issues Working Group meeting at NEI. Attendees were limited and Erin was not invited. She tried to get me taken off the invite list so she could go. NEI disinvited her and said I had a seat at the table, as RUGII chair. The fact that I was attending a meeting that Erin couldn't attend became an issue for more than a year. At one point, she encouraged me to stop being RUG II Chair, although Joe wanted me to continue. Then she scheduled an assessment at WBN that I volunteered to lead. It was a chance for me to demonstrate my capabilities outside of the CNL group. Erin scheduled the assessment for the RIWG week and said it couldn't be scheduled for any other week, encouraging me to skip my RIWG responsibility. She refused to move the assessment date, but later rescheduled it when Pete Wilson led it.

Erin went to the last RIWG instead of Joe and she now calls herself the most senior licensing/regulatory executive for TVA.

In Spring 2016 timeframe, Erin hired Michelle Connor into the CFAM position and spoke negatively about my performance to Michelle.

Erin tried to play Michelle and I against each other repeatedly. At some point, Erin turned on Michelle and Erin would ask me leading questions trying to get me to give negative feedback on Michelle's performance.

SCWE Issue: Around this timeframe, CNL got our second negative safety culture survey results under Erin. Erin told the management team that the individual contributors needed to be accountable for SCWE and fix the problem. She formed a team of individual contributors and directed them to come up with actions to address the negative survey. A team was appointed and they worked on actions. When the next survey came, Chris Riedel who reports to me said that he would not say anything negative again.

For a period, Erin focused on abusing Michelle and didn't bother me. Michelle put in for a VRIF which shocked people. A very smart SRO, long time TVA employee with a promising career in front of her was trying to leave. She could not take the abuse. Joe refused to sign her VRIF and talked her into staying. Within a couple of weeks, the Corporate Nuclear Licensing group was surprised when a mover came to move Michelle's possessions out of her cubicle without her knowledge. Joe and Erin told the group that WBN operators needed TS training and Michelle was the perfect person to do that job. Michelle was put on a "3-6 month rotation" out of Corporate Licensing and Jim Polickoski was brought into the CFAM



position. Michelle has not returned, although her rotation has ended. She is actively seeking another job at TVA, but having a difficult time. Michelle's very knowledgeable of plant ops and TS.

Erin bragged at a management meeting, now that Marie Gillman has left, she is the most senior female manager in TVA Nuclear. Erin is approximately 35, has less than 8 years nuclear experience and less than 5 years licensing/regulatory experience. She does not understand the technical issues and the regulatory issues. She seeks other people's ideas and pushes them as her own.

Safety Issue: Around this timeframe, Russell Thompson who works for me and is the Fukushima Licensing lead, pointed out that SQN reported in a previous letter that they were in compliance with Fukushima requirements, but in actuality they were not based on an unprotected CST. SQN Engineering was not responsive to the issue. I elevated this to Erin. She ignored it. Erin's husband was supervisor of the Fukushima Engineer at SQN. About a month later, the executive team became aware of SQN Fukushima compliance issue and immediately Erin responded to the executives.

Jim became Erin's instrument for controlling the group. He spent hours in her office. Peggy Rescheske commented that Jim saw Erin more than he saw his wife. Jim was dismissive to me treated me as if I was incompetent, I assumed based on Erin's direction. Joe and Erin directed the management team to develop a reorganization proposal. Jim led Ed, Pete and I in several meetings. It was clear that Jim was directed by Erin to take one of my best performers and reassign him to the CFAM group, then propose an organization with one less manager to be implemented in late FY17 or early FY18 (demoting me to individual contributor). Ed Schrull and I proposed other organizational structures, retaining 3 managers. Jim and Pete fought it. I was not going to agree to an organization where I would be demoted, but fully expected a demotion in FY18.

Safety Issue: Around this time, I pointed out that our April 22 letter responding to March 23, CWEL letter did not identify what items were NRC commitments. I brought this issue to Erin. She didn't do anything with it. I wrote a CR and coordinated with Gordon Arent who said he'd take the CR, review the letter and identify which items were commitments. (CR later closed and identified one item as a commitment, although it was evident that NRC was relying on TVA to complete many of those actions). A few months after I wrote that CR, NRC identified a 50.9 in the April 22 letter. If we would have followed our procedure for validation and managing NRC commitments, it's likely NRC would not have identified a 50.9.

I received an unsolicited phone call from an industry recruiter for a position at Entergy. Although I did not want to move away from my family, I realized it would be better to move out of TVA. I went for an interview in Jackson, MS and was told I was one of the top 3 candidates for 2 different positions. Hiring seemed imminent. During a conversation with Chris Nolan from Duke about an unrelated issue, Chris mentioned how much regulatory trouble Entergy was in and if I could help them I should. At my next one-on-one with Erin, she stated that she had heard someone in the group was going to resign. I deflected the conversation, but realized she knew I might be leaving, although I had not told anyone at TVA. I never got the job offer. I suspect, but cannot prove, she has tried to ruin my reputation in the industry.

Safety Issue: Around this timeframe, WBN2 had a couple of extended outages. They had previously stated in writing to the NRC if they had an outage of sufficient duration, they would



perform TS surveillances that had approved NRC extensions. I questioned at team meetings (as well as others) why weren't we performing these surveillances. Erin and Joe deflected. Russ Wells tracked the surveillances that WBN performed prior to restart because he had to write the letter to the NRC. The only surveillances WBN performed were those needed to get out of Mode 4 to restart. Ed Schrull said that we were disingenuous as a minimum to the NRC, if not outright lying about performing surveillances during an outage.

Erin continued to paint a negative picture of Michelle and asked her manager to give her input where Mike McBrearty was difficult to work with. At a management meeting, Erin said she had 2 ECP investigations against her and they both were unsubstantiated. She said, in fact, ECP found that Mike McBrearty was creating a hostile work environment for her. (I had been interviewed by ECP for this complaint, but did not talk about it to retain confidentiality). Erin not only broke confidentiality, but threatened her management team that if we complain to ECP about her it will be unsubstantiated and ECP will find an issue with us.

Immediately after that meeting Erin called me into her office. She said that I was defensive and there's no need to be. She said she was not going to fire me (I never mentioned anything about possibly being fired). She said that I should look for other opportunities. Erin said she could recommend me for the PI Manager position. I said I have more than 30 years of Regulatory/Licensing experience. She was trying to move me out of the group to another position. Although the PI Manager is considered a Senior Manager, it is compensated at a lower rate than my current position.

After NRC announced their CEL follow-up inspection including interviews of Corporate Licensing personnel, Erin changed her tone and became extremely nice to me. She showed concern for travel reimbursement, my family, etc. She talked with me "in confidence" about a reorganization and told me to get her the organization that Ed and I originally proposed. She wanted to keep 3 managers (not demote me).

#### Context:

I realize this is a convoluted story that has continued for more than 2 years. It's difficult to summarize the many complicated examples. The bottom line is that anything that goes against Erin's and Joe's narrative, they work to reshape the story, even when contrary to safety, regulations, policy and procedures, creating a negative SCWE and destroying careers and reputations of those people that have positions that differ from the political narrative.

From 17-114

**Checkle, Melanie**

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**From:** Seat, Jamin  
**Sent:** Friday, October 06, 2017 1:46 PM  
**To:** Checkle, Melanie; R2Allegations Resource  
**Cc:** Mendez-Gonzalez, Sandra; Masters, Anthony  
**Subject:** RE: POTENTIAL ALLEGATIONS - TVA Corporate \*SENSITIVE INFORMATION\*

A follow-up to my previous email. The CST issue was reviewed during the TI-191 inspection not the PI&R. I was misinformed earlier about which inspection this item was reviewed during. Furthermore, Sandra and I conducted a telephone call with the CI at 1300 on 10/6/2017. She explained that the document was only to illustrate the work environment, not provide the NRC with additional concerns or outstanding issues.

---

**From:** Checkle, Melanie  
**Sent:** Thursday, October 05, 2017 12:23 PM  
**To:** Seat, Jamin <Jamin.Seat@nrc.gov>; R2Allegations Resource <R2Allegations.Resource@nrc.gov>  
**Cc:** Mendez-Gonzalez, Sandra <Sandra.Mendez-Gonzalez@nrc.gov>; Masters, Anthony <Anthony.Masters@nrc.gov>  
**Subject:** RE: POTENTIAL ALLEGATIONS - TVA Corporate \*SENSITIVE INFORMATION\*

Thank you Jamin. In that the CI confirmed during the PI&R interviews that she didn't feel she had been discriminated yet, the context of the letter is to provide a summary of her work environment situation (which we inspected), we know the validity of the "safety issues," and she gave no indication that she was expecting a response, we agree that we should file and take no further action.

*Melanie M. Checkle*

Senior Allegation Coordinator  
Enforcement and Investigation Coordination Staff  
U.S. Nuclear Regulatory Commission  
404.997.4426

\*If this email contains sensitive allegation information, please delete when no longer needed.\*

---

**From:** Seat, Jamin  
**Sent:** Thursday, October 05, 2017 11:24 AM  
**To:** R2Allegations Resource <R2Allegations.Resource@nrc.gov>  
**Cc:** Mendez-Gonzalez, Sandra <Sandra.Mendez-Gonzalez@nrc.gov>; Masters, Anthony <Anthony.Masters@nrc.gov>; Checkle, Melanie <Melanie.Checkle@nrc.gov>  
**Subject:** RE: POTENTIAL ALLEGATIONS - TVA Corporate \*SENSITIVE INFORMATION\*

I see no allegations or new information in the document, as summarized below. The document was provided during an interview, during the inspection that was initiated as a result of her previous allegation. The inspector that received the document was provided no indication by the CI, that she expected any response associated with the document. Although there appear to be hints of retaliation contained in the document, when asked if she had experienced retaliation for raising safety concerns, the CI responded that she had not, but that it could happen in the future. I suggest no further actions associated with this document.

Summary of possible concerns in the document:

"Safety Issue" 1: Fatigue rule concern for Watts Bar 2.



We have had several interactions with Watts Bar as it relates to Watts Bar 2 meeting the fatigue rule as it relates to performance of testing that was credited for meeting TS surveillances prior to Unit 2 start-up. Furthermore, the CI openly states that this was submitted as a previous allegation. This is not new information and our concerns were resolved previously.

"Safety Issue" 2: Non-compliance with Fukushima Rule due to unprotected CST.

This is not new information. This was reviewed during a previous PI&R inspection. Our concerns were resolved previously.

"Safety Issue" 3: NRC commitments not identified in March 23 CEL Response

The CI identified that the April 22 Letter responding to the March 23 CEL did not identify which items were NRC commitments (apparently in violation of TVA corporate licensing procedures). The CI claims that the failure to follow the procedure likely resulted in the 50.9 violation.

I doubt we have any regulatory purview over TVA corporate licensing procedures that tell staff how to draft a response to the NRC. Additionally, the CI never stated that the letter contained inaccurate information, she only stated that it merely wasn't written in accordance with their procedures. Thus, I see no impropriety with NRC regulated activities. If TVA submits inaccurate information to the NRC because they failed to follow their corporate licensing procedures, we can issue them a 50.9 violation, which we did.

"Safety Issue" 4: Watts Bar 2 TS surveillances not performed during forced outages.

CI states that TVA was disingenuous or outright lying about performing surveillances during the outage.

TVA committed to perform certain surveillances, prior to the next refueling outage, if the Unit ever entered Mode 4 for any other reason. TVA entered Mode 4 due to a forced outage, but requested relief from their previous commitments (for whatever reason). TVA submitted and received TS surveillance extensions for those surveillances which they did not want to perform during the outage. Regardless of their intent, or the CI's personal opinions, the NRC approved the extension. Additionally, we (Region 2 and NRR) reviewed this concern extensively under a previous allegation, and identified no deficiencies. This is not new information.

---

**From:** Checkle, Melanie **On Behalf Of** R2Allegations Resource

**Sent:** Wednesday, October 04, 2017 2:53 PM

**To:** Masters, Anthony <Anthony.Masters@nrc.gov>

**Cc:** Seat, Jamin <Jamin.Seat@nrc.gov>; Mendez-Gonzalez, Sandra <Sandra.Mendez-Gonzalez@nrc.gov>; Ninh, Son <Son.Ninh@nrc.gov>; Bishop, Brad <Brad.Bishop@nrc.gov>; Monarque, Stephen <Stephen.Monarque@nrc.gov>

**Subject:** POTENTIAL ALLEGATIONS - TVA Corporate \*SENSITIVE INFORMATION\*

PB5,

Attached is a letter received by Ryan Taylor during the inspection at TVA corporate. The CI already has allegation 17-114. The letter was received on 9/18/17 but apparently Ryan had problems forwarding to EICS. In the letter, there are various concerns that could be potential allegations. The CI noted these issues as "safety issues" in her write-up. The rest of the letter speaks about the work environment and what sounds like potential discrimination (rated as "off track" in performance review). Given that this was received on 9/18, please review the letter ASAP and let us know if we have new allegations. Ryan completed a form but the form only documents one of the "safety issues." It may be that the NRC is already aware of the validity of the other "safety issues" but please review and let us know if that is the case. The attached "safety issues" and/or potential discrimination were not raised by the CI in her previous allegation 17-114 (nor by the CI for allegation 17-115, which is related). Also attached is the receipt form for 17-114 for your reference. Thanks.



*Melanie M. Checkle*

Senior Allegation Coordinator  
Enforcement and Investigation Coordination Staff  
U.S. Nuclear Regulatory Commission  
404.997.4426

\*If this email contains sensitive allegation information, please delete when no longer needed.\*

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**From:** Taylor, Ryan  
**Sent:** Wednesday, October 04, 2017 11:02 AM  
**To:** R2Allegations Resource <[R2Allegations.Resource@nrc.gov](mailto:R2Allegations.Resource@nrc.gov)>  
**Subject:** TVA Corporate - Allegation Receipt Form - RCT.docx

Attached is the intake form for a concern received during the TVA Corporate SCWE interviews.

I have also attached a letter documenting concerns that the CI provided during the interviews. With the exception of the new concern, the concerns in the letter appear to be already captured as allegations 17-114 and 17-115.

Sorry for the delay in getting this in. It appears to have been stuck in my outlook outbox.

Ryan

**U.S. Department of Labor**

Office of Administrative Law Judges  
11870 Merchants Walk - Suite 204  
Newport News, VA 23606

(757) 591-5140  
(757) 591-5150 (FAX)



**Issue Date: 31 January 2020**

CASE NO.: 2019-ERA-00015

IN THE MATTER OF

BETH WETZEL,  
Claimant,

v.

TENNESSEE VALLEY AUTHORITY,  
Respondent.

**ORDER APPROVING SETTLEMENT AGREEMENT,  
TREATING AS CONFIDENTIAL AND DISMISSING WITH PREJUDICE**

This case arises under the Energy Reorganization Act of 1974, as amended, P.L. 95-601, 42 U.S.C. 5851. On January 29, 2020, the parties submitted a Mutual Settlement Agreement and Release of Claims. The parties request that the Mutual Settlement Agreement and Release of Claims be treated as confidential financial information pursuant to 29 C.F.R. § 70.26 and personal information of Complainant.

I have read the Mutual Settlement Agreement and Release of Claims signed by the parties and find that the settlement is fair, adequate and reasonable. I approve the Mutual Settlement Agreement and Release of Claims as set forth and find dismissal with prejudice is appropriate. After review, it is determined that the Mutual Settlement Agreement and Release of Claims is fair and reasonable on its face and effectuates the purposes and policies of the Act.

ACCORDINGLY, it is hereby ORDERED that:

1. The Mutual Settlement Agreement and Release of Claims is APPROVED;
2. The Complaint is DISMISSED with prejudice; and the Mutual Settlement Agreement and Release of Claims shall be treated as confidential financial information pursuant to 29 C.F.R. §70.26 and as personal information of Complainant and handled as set forth in the regulations.

**SO ORDERED.**



Digitally signed by Larry Price  
DN: CN=LARRY PRICE,  
OU=JUDGE, O=US DOL Office of  
Administrative Law Judges,  
L=Covington, S=LA, C=US  
Location: Newport News VA

LARRY W. PRICE  
Administrative Law Judge

LWP/ksw  
Newport News, Virginia



## SERVICE SHEET

Case Name: WETZEL\_BETH\_v\_TENNESSEE\_VALLEY\_AUT\_

Case Number: 2019ERA00015

Document Title: ORDER APPROVING SETTLEMENT AGREEMENT,

I hereby certify that a copy of the above-referenced document was sent to the following this 31st day of January, 2020:



Digitally signed by Kisha S. Washington  
DN: CN=Kisha S. Washington, OU=LEGAL  
ASSISTANT, O=US DOL Office of  
Administrative Law Judges, L=Newport  
News, S=VA, C=US  
Location: Newport News VA

**Kisha S. Washington**  
LEGAL ASSISTANT

Regional Administrator  
Region 4  
U. S. Department of Labor, OSHA  
61 Forsyth Street, S.W.  
ATLANTA GA 30303  
*{Hard Copy - Regular Mail}*

NRC Enforcement Coordinator  
U. S. Nuclear Regulatory Commission Region II  
Marquis One Tower  
245 Peachtree Center Ave N.E., Suite 1200  
ATLANTA GA 30303  
*{Hard Copy - Regular Mail}*

Regional Solicitor  
U. S. Department of Labor  
Sam Nunn Federal Center  
Room 7T10  
61 Forsyth Street, S.W.  
ATLANTA GA 30303  
*{Hard Copy - Regular Mail}*

Associate Solicitor  
Division of Fair Labor Standards  
U. S. Department of Labor  
Room N-2716, FPB  
200 Constitution Ave., N.W.  
WASHINGTON DC 20210  
*{Hard Copy - Regular Mail}*

Director  
Office of Enforcement  
U.S. Nuclear Regulatory Commission  
One White Flint North  
11555 Rockville Pike  
ROCKVILLE MD 20852-2738  
*{Hard Copy - Regular Mail}*

Assistant General Counsel for Materials  
Litigation and Enforcement  
Office of the General Counsel  
U. S. Nuclear Regulatory Commission  
WASHINGTON DC 20555-0001  
*{Hard Copy - Regular Mail}*

Director  
Directorate of Whistleblower Protection Programs  
U S Department of Labor, OSHA  
Room N 4618 FPB  
200 CONSTITUTION AVE NW  
WASHINGTON DC 20210

*{Hard Copy - Regular Mail}*

Alan R Kabat, Esq.  
Bernabei & Kabat, PLLC.  
1400 16th Street, NW, Ste. 500  
WASHINGTON DC 20036-2223

*{Hard Copy - Regular Mail}*

MV Bernier  
Tennessee Valley Authority  
400 W. Summit Hill Drive, WT 6A-K  
KNOXVILLE TN 37902

*{Hard Copy - Regular Mail}*

Beth Wetzel  
2326 Wood Sorrell Lane  
SIGNAL MOUNTAIN TN 37377

*{Hard Copy - Regular Mail}*

Steven Chin, Esq.  
Office of the General Counsel  
Tennessee Valley Authority  
400 West Summit Hill Drive, WT6  
KNOXVILLE TN 37902

*{Hard Copy - Regular Mail}*



**Checkle, Melanie**

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**From:** Checkle, Melanie  
**Sent:** Wednesday, January 08, 2020 8:56 AM  
**To:** Stephen, Tom  
**Cc:** Seat, Jamin; Ninh, Son; Mendez, Sandra; Jackson, Donna; Kowal, Mark; Sparks, Scott  
**Subject:** 18-98 RE: status \*SENSITIVE INFO\*  
**Attachments:** RE: status \*SENSITIVE ALLEGATION INFORMATION\*

FYI – we received some information from one of the TVA CIs. Her discrimination case is currently under investigation by OI and should be substantiated in the near future. She is also attempting mediation via DOL and hence the email below. Attached is what OGC said in response to the CI's questions. Just keeping you in the loop. Thanks.

Melanie

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**From:** Checkle, Melanie  
**Sent:** Wednesday, January 08, 2020 8:52 AM  
**To:** (b) (7)(C)  
**Subject:** RE: RE: status

Thank you Beth. I passed on your questions and I was told that the confidentiality agreement is still in place. I hope this helps. If I hear anything else I'll let you know. Thanks.

*Melanie M. Checkle*

Senior Allegation Coordinator  
Enforcement and Investigation Coordination Staff  
U.S. Nuclear Regulatory Commission  
☎W: 404.997.4426 | 📠F: 404.997.4903 | ✉E: [melanie.checkle@nrc.gov](mailto:melanie.checkle@nrc.gov)  
Visit the [Allegations Sharepoint](#) page for forms and helpful links.

\*If this email contains sensitive allegation information, please delete when no longer needed.\*

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**From:** (b) (7)(C)  
**Sent:** Monday, January 06, 2020 4:02 PM  
**To:** Checkle, Melanie <[Melanie.Checkle@nrc.gov](mailto:Melanie.Checkle@nrc.gov)>  
**Subject:** [External\_Sender] RE: status

Hi Melanie,  
Happy New Year to you too.

TVA didn't say anything about mediation to the reporter. In TVA's letter to the DOL sponsored mediator, TVA gave the dollar amount of TVA's offer to me and the dollar amount of my "demand" from the unsuccessful April 9 NRC sponsored mediation.

Beth

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**From:** Checkle, Melanie <[Melanie.Checkle@nrc.gov](mailto:Melanie.Checkle@nrc.gov)>  
**Sent:** Monday, January 6, 2020 1:29 PM

To: (b) (7)(C)

Subject: RE: status

Hi Beth, happy new year. Thanks for the information on the article. I can ask our ADR program manager about your question regarding the non-disclosure but had a couple of questions. Did TVA mention the NRC sponsored mediation in the letter to the DOL mediator or in the article (didn't see anything in the article)? And what numbers are you referring to? Any other information that was disclosed?

*Melanie M. Checkle*

Senior Allegation Coordinator

Enforcement and Investigation Coordination Staff

U.S. Nuclear Regulatory Commission

W: 404.997.4426 | F: 404.997.4903 | E: [melanie.checkle@nrc.gov](mailto:melanie.checkle@nrc.gov)

\*Please be advised that the NRC cannot protect the information during transmission on the Internet and there is a possibility that someone could read your response while it is in transit.\*

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From: (b) (7)(C)

Sent: Monday, January 06, 2020 12:52 PM

To: Checkle, Melanie <[Melanie.Checkle@nrc.gov](mailto:Melanie.Checkle@nrc.gov)>

Subject: [External\_Sender] status

Melanie,

You probably already saw it, but in case you didn't...attached is an article that was in yesterday's Knoxville paper about my DOL case.

<https://www.knoxnews.com/story/news/crime/2020/01/03/labor-department-tva-cooked-up-cause-fire-nuclear-whistleblower/2794793001/>

Also, to keep you up to date. DOL recommended mediation. TVA and I are scheduled to go to mediation next Monday, January 13. Each of us were asked to provide letters to the mediator prior to the DOL sponsored mediation. I was surprised when TVA referred to the NRC sponsored mediation and specific numbers that were discussed during the April, 2019 mediation. We all signed non-disclosure agreements at that mediation and promised to not discuss anything contained in the NRC sponsored mediation. Is that of concern that TVA provided information from the previous mediation? Has the non-disclosure from the NRC sponsored mediation been lifted? I'm not sure what I'm allowed to discuss on January 13.

Beth



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