

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

CAROLINA POWER & LIGHT COMPANY)
and NORTH CAROLINA EASTERN)
MUNICIPAL POWER AGENCY)
(Shearon Harris Nuclear)
Power Plant))

Docket No. 50-400 OL

DOCKETED
USNRC

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OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

AFFIDAVIT OF S. L. BURCH

County of Wake)
State of North Carolina)

S. L. BURCH, being duly sworn according to law, deposes and says as follows:

1. My name is S. L. Burch. My business address is 3320 Old Garner Road., Post Office Box 29500, Raleigh, North Carolina, 27626-0500. I am employed by the North Carolina State Bureau of Investigation, Department of Justice (SBI) as an Assistant Supervisor of Drug Investigations, Capital District. I worked as an undercover agent for the SBI approximately eight years throughout the state of North Carolina. I have attended several drug investigations schools. I am now responsible for drug investigations involving the SBI within the Capital District which consists of nine counties. I have been employed by the SBI since November, 1975.

2. I have read the 9 July 1985 affidavit of Michael W. King on behalf of the Applicant, Carolina Power & Light Company (CP&L) which was filed in this matter 12 July 1985 in response to Contention WB-3. In addition, I have reviewed Mr. King's affidavit with Lieutenant Ray Self and Deputy K. G. Hensley of the Wake County Sheriff's Department (WCSD).

3. The purpose of my affidavit is to respond to the assertions made by Mr. King in his affidavit and to explain in greater detail the undercover operation at the Shearon Harris Nuclear Power Plant conducted by the WCSD and the SBI in October, 1984.

4. On 17 October 1984 I attended a meeting at the request of the Wake County Sheriff's Department. Also attending this meeting were Supervisor C. J. Overton, III of the SBI; Sheriff John Baker and Major T. Lanier of the WCSD; Mike King, head of CP&L security and Glenn Joyner, CP&L security officer. During this meeting, Mr. King advised that it had been brought to CP&L's attention that there was a drug problem at the Harris plant. He further advised that the Nuclear Regulatory Commission was putting pressure on CP&L to look into the problem. Ultimately, Mr. King requested that the WCSD aid in this investigation by placing an undercover operative inside the Harris plant. Sheriff Baker indicated that he was limited in manpower, specifically, experienced manpower.

However, he agreed to assign an individual to act as an undercover person. Simultaneously, Sheriff Baker requested that the SBI assist them by furnishing an experienced undercover operative to work jointly with the WCSD. Drug Investigations Supervisor Overton assured Sheriff Baker that the SBI would assist in whatever way possible.

5. The undercover operation began in November, 1984. The undercover operatives were Wake County Deputy K. G. Hensley and Special Agent D. Williams (Williams is no longer employed by the SBI but is now employed as an agent with the Drug Enforcement Administration of the United States). Using a confidential source provided by CP&L, undercover purchases were made almost immediately. The undercover purchases were monitored by Wake County Deputy Lieutenant Self, the head of the Sheriff's Department drug unit. It should be noted that the undercover officers and the confidential source were also requested by CP&L to provide their security with the names or identification numbers (found on each employee's hard hat) of anyone seen with or using a controlled substance. The officers complied with this request.

6. The operation was not without problems. Approximately two to three weeks into the undercover operation CP&L initiated a gate search using metal detectors. This procedure slowed the progress of the undercover operation. Deputy Hensley reported

that this procedure had never been done before and that the employees from whom he had been purchasing drugs began to report that there was a "snitch" on the site. He further stated that CP&L could have stopped this procedure but did not.

7. Furthermore, Lieutenant Self reported that he was advised by the confidential source that Mr. King and Mr. Joyner were searching stash areas on-site after they were informed of the stash areas by Deputy Hensley. Lieutenant Self stated that he instructed Hensley to cease reporting stash area locations to CP&L security in order to insure Deputy Hensley's safety. On another occasion Deputy Hensley received information that two employees were to bring a large amount of marijuana inside the plant. Deputy Hensley requested that CP&L security allow the two individuals to pass through the gate. However, CP&L officials did not allow the two individuals to enter the plant; but instead stopped them at the gate, searched them, and obtained over an ounce of marijuana from each individual. This event caused further talk of a "snitch" operating inside the plant.

8. Lieutenant Self advised that during this same time period Deputy Hensley began to develop intelligence which indicated that there were several cliques dealing drugs at the Harris plant

involving several hundred people which ranged from the supervisory level; to the secretarial level; to the actual work force. Drug dealings were taking place primarily inside the Harris plant, outside in the parking lots and in a nearby grocery store. Lieutenant Self stated that Deputy Hensley was obtaining information that a supervisor with either Daniels or CP&L was allegedly making trips to Florida and picking up pound quantities of pure cocaine which was being distributed by an identified suspect. This supervisor allegedly worked in the main construction building. Attempts to make a cocaine purchase from the identified suspect were made. However, the termination of the undercover operation precluded any possible results.

9. Deputy Hensley reported that he made his first drug purchase after being on-site only one and a half hours. As a conservative estimate, he stated that he observed at least one hundred employees using drugs while on the job. These drugs included cocaine and marijuana. The employees included welders and electricians. Employees dealing in drugs included safety personnel and a quality assurance person. The QA person's duties included inspecting electric pulls. Deputy Hensley reported that this person was dismissed after he identified the person to CP&L security.

10. Towards the middle of December, 1984, a plan was formulated in furtherance of the undercover operation to move the two undercover operatives to the second shift. At that time the two officers had only worked on the first shift. Supervisor Overton and I made arrangements to withdraw Special Agent Williams and to replace him with another agent. Lieutenant Self contacted Mr. King in reference to this plan. Mr. King advised Self that CP&L was planning to bring drug dogs into the Harris plant. King further advised that they were planning a lay-off of some of the employees. King could not guarantee that the people from whom undercover purchases had already been made were going to stay. At this time Self contacted Sheriff Baker.

11. Another meeting was called at the request of Sheriff Baker. Attending this meeting were Sheriff Baker, Major Lanier, Lieutenant Self, Supervisor Overton and Mike King. Sheriff Baker advised King that the undercover operation needed to float to the second shift. Sheriff Baker then inquired as to the proposed use of drug dogs. King responded that he thought that everything was being misunderstood. Sheriff Baker asked King if CP&L was going to delay the use of the drug dogs. King stated that they were not because they had already entered a contract. Sheriff Baker and Supervisor Overton made the decision to cease the undercover operation so as not to endanger the undercover officers.

12. On 10 January 1985, eight individuals employed at the Harris site were arrested. Presently, seven of the eight have pled guilty. In addition to these eight individuals from whom purchases of drugs were made by Deputy Hensley, he reported to CP&L the names of fifty-one (51) employees as having been seen with or using drugs. Lieutenant Self reported that all of these individuals were dismissed from the Harris plant.

13. On 25 June 1985, I discussed the drug situation at the Harris plant with the other undercover officer, former Special Agent Williams. He stated that during the undercover operation the intelligence being received indicated that there were employees in higher levels than those with which he was dealing that were involved in drug trafficking. Williams stated that in his opinion there was more work that could have been accomplished. He also noted that due to information received from a confidential source he felt that there was a leak at the Harris plant regarding the fact that there were undercover officers being utilized in the plant.

14. The termination of the undercover operation was premature. The termination was not made because the undercover operation was complete; or because the law enforcement agencies

conducting it recommended termination; or because of any lack of suspects. The sole and exclusive reason for the termination by the SBI was CP&L's insistence on bringing in drug dogs prematurely; thus, creating a substantial and too high a risk to the personal safety of the law enforcement officers if they remained in the undercover operation with drug dogs on-site. CP&L was informed of this risk and was requested to defer bringing the dogs on-site until the investigation was substantially complete. When CP&L insisted on the immediate use of the drug dogs, CP&L was advised that the undercover operation would be terminated. At CP&L's insistence, the drug dogs were to be brought on-site and the undercover operation was immediately terminated.

15. Based on my evaluation, it is my opinion that the undercover operation was not a success. It was terminated far too early because actions by CP&L endangered the lives of the undercover officers. Personal observations and intelligence gathered by the officers indicated that drug dealings and drug use were widespread at the Harris plant. Had the undercover operation been allowed to safely continue, to expand to other shifts, and to have been terminated by the law enforcement agencies; any appraisal

of the extent of the drug problem at the Harris plant would have been more accurate and subsequently more arrests would have been effected.

S. L. Burch
S. L. Burch

Sworn and subscribed to before me
this ____ day of _____, 1985.

Notary Public

My Commission expires _____

July 31, 1985

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Petition to Intervene by the Attorney General of North Carolina," of "Response by the Attorney General of North Carolina to Applicants' Motion for Summary Disposition of CCNC Contention WB-3 (Drug Abuse During Construction)," and of "Affidavit of S. L. Burch;" were served this 31st day of July, 1985, by deposit in the U. S. Mail, first class, postage prepaid, to the parties on the attached Service List.

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Page two - Service List

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