

DCS



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

AUG 13 1985

Docket Nos. 50-413
50-414
License Nos. CPPR-116
SPPR-117
EA 84-93

Duke Power Company
ATTN: Mr. Warren H. Owen, Executive Vice President
Engineering, Construction, and
Production Group
422 South Church Street
Charlotte, NC 28242

Gentlemen:

Subject: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY

This refers to the findings of the Atomic Safety and Licensing Board (ASLB) on June 22, 1984 in its Partial Initial Decision in the operating license proceeding for the Catawba Nuclear Station, Clover, South Carolina, LBP-84-24, 19 NRC 1418. The ASLB identified incidents involving discrimination against an employee for raising safety concerns. In the staff's view, a violation of NRC requirements has occurred as described in the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice). This action was also the subject of a request under 10 CFR 2.206 by the Palmetto Alliance and a letter from Ms. Billie P. Garde to Mr. R. C. DeYoung and Ms. J. A. Axelrad. These communications were addressed in a Director's Decision under 10 CFR 2.206 (DD 85-9) issued June 4, 1985. The Commission has declined to take review of that decision under 10 CFR 2.206(c).

The violation in the enclosed Notice concerns discrimination against an employee for engaging in a protected activity. Under 10 CFR 50.7, discrimination by a Commission licensee against an employee for engaging in certain protected activities is prohibited. The ASLB concluded that a QC welding inspector foreman, Gary E. "Beau" Ross, had been poorly rated in his 1981-82, November 1982 interim, and 1982-83 performance appraisals, because of his and his crew's expression of nuclear safety concerns to management. Although the scope of the protection afforded under 10 CFR 50.7 was not a matter before the board for its determination, the ASLB expressed in its decision the view that the discriminatory actions against Mr. Ross violated the spirit of 10 CFR 50.7, but not its letter because Ross was not engaged in protected activities; i.e., the reporting of safety concerns to the NRC. For the reasons described in the aforementioned Director's Decision, the staff believes that the protected activities include reporting of quality assurance discrepancies and nuclear safety problems by an employee to his employer. The November 1982 interim and the 1982-83 performance appraisals of Mr. Ross occurred after the promulgation of 10 CFR 50.7.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

8508160156 850813
PDR ADOCK 05000413
Q PDR

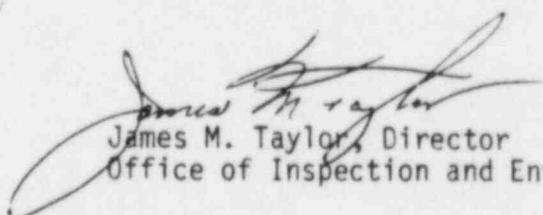
To emphasize that acts of discrimination against an employee engaged in a protected activity will not be tolerated, I am issuing the enclosed Notice of Violation and Proposed Imposition of Civil Penalty in the amount of Sixty-four Thousand Dollars (\$64,000) for the violation described in the enclosed Notice. The violation is serious in that it involved discrimination by personnel in senior supervisory or management positions. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" in effect when this violation occurred (see 10 CFR Part 2, Appendix C, 47 FR 9989, March 9, 1982), the violation described in the enclosed Notice has been categorized at a Severity Level II. The base value of a civil penalty for a Severity Level II violation under that policy is being proposed. As discussed in the Director's Decision, the escalation or mitigation factors in the Enforcement Policy were considered and no adjustment has been deemed appropriate.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. After reviewing your response to this Notice, including your proposed corrective actions, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

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

The responses directed by this letter and the enclosed Notice are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, P 96-511.

Sincerely,



James M. Taylor, Director
Office of Inspection and Enforcement

Enclosure:
Notice of Violation and
Proposed Imposition of Civil Penalty

See next page for cc's.

cc w/encl:

R. L. Dick, Vice President - Construction

J. W. Hampton, Station Manager

James L. Kelley, Chairman

Atomic Safety and Licensing Board

Dr. Paul W. Purdom

Administrative Judge

Dr. Richard F. Foster

Administrative Judge

Robert Guild, Esq.

Palmetto Alliance

Jesse L. Riley

Carolina Environmental Study Group

Billie Garde, GAP

ASLPB (5 copies)

Duke Power Company

3

bcc w/encl:

PDR

LPDR

ACRS

SECY

CA

JMTaylor, IE

RVollmer, IE

JNGrace, RII

JAxelrad, IE

EHoller, IE

JLieberman, ELD

Enforcement Coordinators

RI, RII, RIII, RIV, RV

VStello, DED/ROGR

FIngram, PA

EJordan, IE

JPartlow, IE

BGrimes, IE

HDenton, NRR

RStark, NRR

BHayes, OI

SConnelly, OIA

JCrooks, AEOD

IE:ES File

IE:EA File

DCS

NRC Resident Inspector

EDO Rdg File

G. Johnson, ELD

State of South Carolina

IE:ES
EHoller
8/8/85

ELD
JLieberman
8/8/85

ES
JAxelrad
8/8/85

8/9
#3
8/9
IE:DD
RVollmer
8/ /85

IE:DD
JMTaylor
8/13/85