

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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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

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

AFFIDAVIT OF D. GLENN JOYNER

County of Wake)

State of North Carolina)

ss.

D. GLENN JOYNER, being duly sworn according to law, deposes and says as follows:

1. My name is D. Glenn Joyner. My business address is P. O. Box 165, New Hill, North Carolina, 27562. I am employed by Carolina Power & Light Company at the Shearon Harris Nuclear Power Plant as Commissioned Construction Security Agent. I report to Mr. King. I have been employed by CP&L in security positions at the Harris site since September, 1979. Previously, I spent over nine years as an Investigator with the Raleigh Police Department. I earned a B.S. degree in Police Science in 1977 from North Carolina Wesleyan College.

2. I have reviewed the Affidavit of S. L. Burch dated July 31, 1985. I also have reviewed the Burch Affidavit with Lt. Self, Deputy Hensley and other personnel in the Wake County Sheriff's Department (WCSD) in a meeting on August 12, 1985. The purpose of this affidavit is to respond to the statements made by Ms. Burch concerning the undercover narcotics investigation at the Harris site in late 1984. I was personally and

directly involved in the decision to initiate that effort, the planning of the operation, the CP&L support for the operation, and the regular contact and coordination with the undercover agents. To the best of my recollection, my only contact with Ms. Burch of the State Bureau of Investigation (SBI) was at the October 17, 1984 meeting discussed in paragraph 4 of her affidavit, and in a telephone call I made to her during the operation. The purpose of that call was to seek Ms. Burch's assistance in locating the supervisor of SBI agent Williams -- one of the two undercover operatives -- to report agent Williams' irregular attendance record at the job site and consequent lack of support of the investigation.

3. Ms. Burch states that at the October 17, 1984 meeting, which I attended, Mr. King advised that the NRC was putting pressure on CP&L to look into the drug problem at the Harris site. Burch Affidavit, ¶ 4. I do not recall any statement made by Mr. King indicating that pressure from any source was our motivation for requesting the drug operation. In fact, the operation came about because of a weekly report I wrote on August 16, 1984, which advised of drug information we were receiving about employees at the site. Mr. M. A. McDuffie, CP&L Senior Vice President, Nuclear Generation Group, read the report and telephoned me to discuss it. I suggested to Mr. McDuffie that we should proceed with an undercover operation utilizing members of the law enforcement community as operatives. He then contacted Mr. Watson, Vice President, Harris Nuclear Project Department, and, after further discussion, a letter was sent on August 30, 1984 from Mr. Watson to the WCSD requesting a meeting to discuss the drug activity. At no time was there any external pressure by anyone on anyone to conduct the undercover operation.

4. Ms. Burch states that at the October 17, 1984 meeting, Sheriff Baker indicated he was limited in experienced manpower, but that he would assign an individual to act as an undercover operative. Burch Affidavit, ¶ 4. At the time, Lt. Self was, to my knowledge, the only member of the WCSD drug unit. The assigned WCSD undercover

operative, Deputy K. G. Hensley, was working with and teaching computer systems for the WCSD. Although it is my understanding that Deputy Hensley had previous undercover experience, he had no narcotics investigation experience prior to this operation. During the undercover operation, Deputy Hensley and I worked well together and developed a relationship of mutual trust. It was my impression that Deputy Hensley was satisfied with and appreciative of the assistance I provided. During our meeting of August 12, Deputy Hensley confirmed my impression and stated that Mr. Hindman, Mr. King and I were totally supportive of his efforts on site, and cooperated with him in every way that we could.

5. Ms. Burch also states that at the October 17, 1984 meeting, Sheriff Baker requested that the SBI furnish an experienced undercover operative to work with the WCSD, and that the SBI assured Sheriff Baker it would assist in whatever way possible. Burch Affidavit, ¶ 4. Special Agent Williams, the SBI undercover operative, was indeed experienced. However, his support for the operation proved to be inadequate in my opinion. While I did not keep a record or log of his activities, I estimate that Agent Williams appeared for work at the Harris site on only 10 to 15 occasions during the 8-week investigation. In addition, when he did report for work, he frequently remained on site for only 3 to 5 hours. To my knowledge, Agent Williams made only one drug purchase during the operation. Deputy Hensley has confirmed this description of Agent Williams' attendance and of the results he achieved. As indicated earlier, I telephoned Ms. Burch about this situation. I assume that this experience in some measure was the basis for the SBI's plan in mid-December, 1984, to withdraw Agent Williams and to replace him with another agent. Burch Affidavit, ¶ 10.

6. During the planning stage for the operation, Lt. Self of the WCSD stated that in order to help the undercover operatives gain access to the drug dealers, he wanted the assistance, as an informant, of an employee who had been terminated and turned over to the WCSD for possession of cocaine. The individual agreed to perform this role in

exchange for the dropping of criminal charges against him and with the understanding that he would not testify in any subsequent criminal proceedings. Consequently, only purchases by the law enforcement officers could be the basis for arrests. The informant had been an employee of Davis Electric Company, a sub-contractor of Daniel Construction Company. Because this individual had been terminated for violating site drug abuse policies, Daniel could not be persuaded to re-hire him. We then arranged to have him hired through a temporary agency with his salary paid by CP&L, and gave him total access to the site. It was understood by the WCSD and others involved in the investigation that co-workers of this former employee knew he had been fired and the reasons for his termination, but a cover story was developed to the effect that the charges could not be proven against him.

7. I gave badges to both operatives (Hensley and Williams) under a fictitious company (Management Consultants). In the case of Deputy Hensley, his assigned consultant work involved terminals for computer systems -- a role which utilized his expertise at the WCSD. The agents were both told that they had access to the plant site at any time they needed it. Given the nature of their consultant roles, the operatives were not tied to a single shift or work area. In other words, other employees would not necessarily expect their work to require strict adherence to a given shift schedule. The operatives were provided with private office space, a telephone and a sign on the door identifying their fictitious company. I took hard hats home and painted them for the operatives' use, adding their names and company.

8. Mr. Plueddemann of Daniel Industrial Relations and I were available to the operatives on a daily basis, and did all follow-up work to make positive identification of each person reported to have used, possessed or sold drugs. In addition to the assistance provided by the confidential informant, we provided the agents, at the outset of the operation, with a list of employees we suspected of drug activity.

9. As an experienced law enforcement officer, I was conscientiously concerned with the safety of the agents and the secrecy of the operation. It was for this reason that we could not afford to create a major fuss in order to have Daniel re-hire the informant. Our concern for secrecy also prevented us from altering routine site operations and procedures, or planned changes to those operations and procedures, in a way which would attract attention or suspicion.

10. Ms. Burch states that Deputy Hensley made his first drug buy after being on site for only one and one-half hours. Burch Affidavit, ¶¶ 9, 5. This statement is not accurate. Deputy Hensley told me that the informant (requested by the WCSD) purchased a controlled substance shortly after Hensley was on site. Consequently, since the purchase was not made by the officers, it could not be used to draw warrants. Deputy Hensley has confirmed that this first buy was made by the informant, not by Hensley.

11. Ms. Burch states that the initiation two to three weeks into the operation of a gate search using metal detectors slowed the progress of the undercover operation, and implies that it caused employees to suspect the presence of a "snitch" on site. Burch Affidavit, ¶ 6. CP&L did initiate a gate exit search with metal detectors on November 12, 1984, on a random selection of employees. If the undercover operation began on November 6, 1984 (the date of the first buy), then the metal detector search was not initiated two to three weeks into the operation as Ms. Burch states, and could not have slowed its "progress," since it had barely begun. All of the remaining drug purchases were made after initiation of the metal detector searches. The purpose of this search was to curb tool theft at the site, and not to detect drugs. The metal detectors would only detect metal -- not drugs. They had been requested by the new construction manager well before the undercover operation had been conceived. The agents did express concern about those searches, in that they felt the availability of drugs might be affected. I advised them that the detectors had been used for one week, and that to stop

their use abruptly would arouse suspicion as well as require additional personnel to be informed of the undercover operation. The agents expressed no concern as to their safety. Further, there was no perceived retrenchment in drug activity in the circle of employees with which the operatives were involved. During our meeting of August 12, Lt. Self and Deputy Hensley stated that their concern with initiation of the metal detector searches was simply that any changes at the site were detrimental in that they might arouse the paranoid suspicions of those involved in drug activity. They agreed, however, that there was no apparent diminishment in drug activity by those under investigation. In my view, any rumors of a "snitch" were more likely caused by the presence of the informant, who had been previously fired for drug use. For example, during our August 12 meeting, Hensley cited an incident in which an unidentified female employee approached the informant and accused him of working with law enforcement.

12. Ms. Burch states that Lt. Self of the WCSD has reported that he was advised by the confidential informant that Mr. King and I were searching stash areas on site after we were informed of the stash areas by Deputy Hensley. Burch Affidavit, ¶7. Neither Mr. King nor I searched any stash areas during the undercover operation. In fact, we were not informed of any stash areas by Deputy Hensley or Agent Williams. During our August 12 meeting, Deputy Hensley confirmed that he did not advise us of any stash area locations -- which he also stated were constantly changing.

13. Ms. Burch states that on one occasion Deputy Hensley received information that two employees were to bring a large amount of marijuana inside the plant, and that Deputy Hensley asked CP&L Security to allow the two individuals to pass through the gate. Instead, according to Ms. Burch, CP&L personnel stopped the employees at the gate, searched them and confiscated the marijuana, causing further talk of a "snitch" operating inside the plant. Burch Affidavit, ¶7. This account of the events is incomplete and in part inaccurate. I was present on December 20, 1984, when the informant told Deputy Hensley about the two employees who were to bring a large

quantity of marijuana on site. Deputy Hensley had tried on numerous occasions to purchase drugs from these individuals. I was told by Deputy Hensley and the informant that these employees would sell to the informant, but not to Deputy Hensley, who advised that he would not be able to develop a case on these employees. We were never instructed or asked to let these individuals pass through the gate. Deputy Hensley and I discussed and agreed that we should proceed to search these employees since they would not sell to him and they could be bringing a large amount of marijuana on site for distribution to other employees. I asked if this course of action would potentially compromise the cover of the informant or Deputy Hensley, and both Deputy Hensley and the informant felt that it would not. None of us considered Deputy Hensley's cover to be in question since the intelligence came from the informant alone. Deputy Hensley called Lt. Self to explain the plan. During the same telephone call, I also discussed our recommendations with Lt. Self and discussed getting a search warrant to search these two employees. I later telephoned Lt. Self and discussed the plan with him again on the evening of December 20. I suggested that the WCSD obtain a search warrant and arrest these employees the next day when they came on site. I arrived on site on the morning of December 21, 1984, expecting to meet Lt. Self or someone else from the WCSD. When no officers arrived, I felt there was no choice but to proceed to search these employees, rather than knowingly to allow a potentially large quantity of drugs to be brought on site. Whether the search was conducted by CP&L Security or the WCSD, both Deputy Hensley and Lt. Self had previously agreed with us that the employees should be stopped and searched. Again, it is my judgment that any talk of a "snitch" was a direct consequence of the selection of the informant to participate in that operation.

14. I discussed my recollection of these events with Lt. Self and Deputy Hensley at our meeting of August 12. Deputy Hensley agreed that he did not request that CP&L Security allow the two individuals to pass through the gate. Rather, he was interested principally in arresting the two employees in some manner. Deputy Hensley also recalls

hearing me discuss with Lt. Self the possibility of getting a search warrant. When the arrangements for conducting a WCSD search with a warrant prior to entry on site did not work out, Deputy Hensley agreed in retrospect that we took an understandable and appropriate action in preventing the drugs from coming on site. Lt. Self could not recall precisely why the WCSD did not appear to arrest the workers, but expressed the belief that they were distracted by another priority drug investigation. While I am convinced that my recollection of the events is correct, these discussions reveal that at worst there was a misunderstanding at the time or that memories have since become fuzzy. It is undisputed, however, that we did not go against the WCSD's expressed wishes in stopping these employees.

15. Ms. Burch states that Lt. Self advised her that Deputy Hensley began to develop intelligence indicating that there were several cliques dealing drugs at the Harris Plant, and that the dealings were taking place for the most part inside the plant, outside in the parking lots and in a nearby grocery store. Burch Affidavit, ¶ 8. We advised the agents before the operation began about suspected drug activity in the parking lots and at the grocery store. Deputy Hensley confirmed that we so advised him. To my knowledge, the agents were not able to make a drug purchase at the parking lots. Similarly, I am not aware that any attempts were made by the agents to identify drug activity at the grocery store. In addition, there is no reason why law enforcement agencies could not pursue suspected drug activity outside the context of this particular undercover operation.

16. Ms. Burch states that Deputy Hensley was obtaining information that "an identified suspect was distributing cocaine purchased in Florida by a supervisor, and that attempts to make a cocaine purchase from "the identified suspect" were made. Burch Affidavit, ¶ 8. At our August 12 meeting, Deputy Hensley reported that he still does not know who the alleged distributor was. Rather, Deputy Hensley stated that he was still exploring, when the investigation ended, two possible suspects -- neither of whom had yet been willing to make a sale to the Deputy. Information on these two employees,

however, had been provided to CP&L by the WCSD. Deputy Hensley also rejected any implication that the undercover operation was terminated because of his pursuit of this information.

17. Ms. Burch states that employees dealing in drugs included a QA person whose duties included inspecting electrical pulls. It is also stated that he was dismissed after Deputy Hensley identified the person to CP&L Security. Burch Affidavit, ¶9. In fact, this employee worked in Construction Inspection (CI), and was the subject of a search warrant served on him on January 10, 1985, with negative results. The employee was terminated that day after the search on the basis of previously acquired information. In our meeting Deputy Hensley agreed that this in no way interfered with the investigation. Ms. Burch also states that employees dealing in drugs included "safety personnel." Burch Affidavit, ¶9. I believe this refers to a single clerical employee working in industrial safety. In our meeting Deputy Hensley confirmed that he did not distinguish between personnel doing nuclear safety-related work and personnel engaged in non-nuclear safety work.

18. Ms. Burch states that the undercover operation was terminated prematurely solely because of CP&L's decision to begin the use of narcotic detection dogs, which would create an unacceptable risk to the undercover operatives. Burch Affidavit, ¶14. I do not agree that the use of a narcotic detection dog to search diverse and random locations on the site would have compromised the cover of the undercover operatives. Neither do I agree that any actions by CP&L endangered the lives of the officers. Burch Affidavit, ¶15. Neither Deputy Hensley nor Agent Williams expressed to me any concern about their personal safety during the operation. In our August 12 meeting, Hensley stated that he did not think anything done by CP&L during the undercover operation had endangered his life. Sheriff Baker and others in the WCSD did confirm that they terminated the operation because they understood the dogs would be brought to the site immediately.

19. I personally regret that this controversy, which I believe is based on miscommunication and a misunderstanding of our actions, has arisen. I proposed this operation, devoted substantial time and effort in an attempt to make it effective, and worked to preserve the secrecy of the investigation and the safety of those involved. Lt. Self of the WCSD stated to me before the operation began that January 2, 1985 would be the termination date for the investigation. In our meeting of August 12, Lt. Self agreed that he made this statement, but added that he intended the operation would also be reviewed and its status re-assessed at that time. I did not understand that at the time. In addition, eight weeks was viewed by me to be sufficient time for such an operation, given the assistance of the informant and the leads we provided, and the geographically concentrated area to be investigated.

20. This undercover operation was not perfect -- as few are. The SBI agent, who was experienced, did not support the investigation adequately, leaving it for the most part to Deputy Hensley to obtain cases against suspects. Employees willing to sell drugs to the informant often would not sell to Deputy Hensley. To illustrate, except for one employee, the individuals who sold drugs to Deputy Hensley in December, 1984, were the same employees who made sales to him in November. This was not necessarily anyone's fault, but combined with the low level of SBI support it, in my mind, casts serious doubt on the likelihood of success for an extended operation. The agents could have worked any hours, but the informant had not worked the second shift and did not have contacts among those employees. Therefore, the efforts were concentrated on the first shift. Finally, the selection of this informant -- known by some on site to have been fired earlier for drug use -- made it difficult to preserve secrecy and perhaps to gain the trust of suspects. Further, near the end of the operation the informant was concerned with his personal safety because of the suspicious situation, where for eight weeks he was constantly talking about drugs and trying to arrange purchases for the two consultants (agents). In our discussion on August 12, WCSD personnel disagreed with our assessment

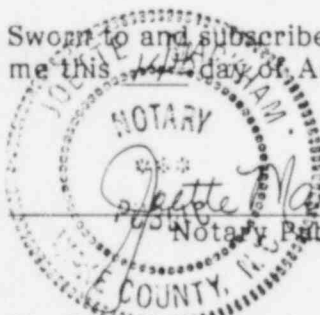
that an extended operation would not likely have been successful. They believe that Deputy Hensley and a new SBI agent could have been productive on the second shift without the informant. This remains a difference of professional opinion.

21. It is somewhat understandable if the undercover agents believe there was more drug use at the Harris site than they could confirm. The informant was an experienced drug user who introduced them immediately into a circle of drug dealers and users. It is also to be expected that rumors would exist, among these people, on the extent of drug activity. The investigation did provide us with, and confirm in some cases, valuable intelligence on drug activity at the site. This has enabled us to implement site drug abuse policies more effectively. Based on my six years of security work at the site, however, including the results of our searches with the narcotic detection dog, I do not conclude that drug use is widespread at the site. Of course, we regard it as a serious problem, however, and for that reason we invited this undercover operation and continue in our own efforts to curb drug activity.

D. Glenn Joyner

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Sworn to and subscribed before
me this 14th day of August, 1985.



My Commission expires: 2-16-88