



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
101 MARIETTA STREET, N.W.
ATLANTA, GEORGIA 30323

REC'D FEB 06

FEB 06 1995

MEMORANDUM FOR: James Y. Vorse, Director, Office of Investigations
FROM: Bradley W. Jones, Regional Counsel
SUBJECT: SHEARON HARRIS VAN VO INVESTIGATION

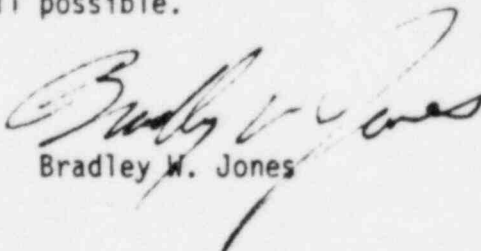
The Staff presently has before the Commission a proposed policy whereby the recent Brown and Root decision on Section 210 of the Energy Reorganization Act of 1974 would not apply to NRC activities, pending an appeal of that decision by the Department of Labor. I was informed yesterday that Jane Axelrad will contact Ben Hayes to convey the position that, at least for determining the appropriate scope of investigations, the Agency should not follow the Brown and Root decision until the Commission reaches a decision on the proposed Staff policy.

Under the Brown and Root decision, an employee is not engaged in protected activity unless he comes to the NRC with his concerns prior to the alleged harassment. After reviewing the DOL file on Mr. Van Vo, you indicated that DOL was applying a Brown and Root-type rationale in finding his dismissal was not improper under Section 210. Your investigation has been held up pending a decision on how to apply Brown and Root since there is no apparent harassment violation for OI to investigate if Mr. Van Vo was not engaged in protected activity. I fully expect that, after Jane Axelrad's discussions with Ben Hayes, it will be concluded it is appropriate for you to resume your investigation concerning potential harassment of Mr. Van Vo. I am forwarding certain needs that ELD has with respect to completion of the investigation, so that you will be fully informed when your investigation resumes.

The Licensing Board in Shearon Harris has recently admitted a contention based on possible harassment of Mr. Van Vo. That order designated a schedule for hearing the harassment issue. Discovery processes are to be completed by March 1, 1985. Summary disposition motions must be filed by March 15, 1985. OI's report will be needed for both Discovery and Summary disposition purposes. The Staff intends to move for Summary disposition if the report supports such a motion. Should the Summary disposition be denied, a hearing will be scheduled in late April or early May. The NRC witnesses at such a hearing will include OI staff members who participate in the investigation of Mr. Van Vo's harassment issues.

Licensing Boards are generally very reluctant to change hearing schedules, so the above deadlines should be met if at all possible.

8508230034 850814
PDR FOIA
GUILD85-173 PDR


Bradley W. Jones

cc: J. Olshinski
B. Uryc✓
C. Barth, ELD
J. Moore, ELD

All

All