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LYNNE BERNABEI
DEBRA S. KATZ

HAND-DELIVERED
March 14, 1988

Mr. Stewart D. Ebnetter
Director
Office of Special Projects
U.S. Nuclear Regulatory Commission
One White Flint, North
11555 Rockville Pike
Rockville, Maryland 20852

Dear Mr. Ebnetter:

I am writing to urge you to reopen as a Sequoyah restart issue the Tennessee Valley Authority's ("TVA") harassment and intimidation of TVA and contractor engineers who report serious safety problems in TVA's nuclear power program. As Nuclear Regulatory Commission ("NRC") Chairman Lando Zech recognized as early as March, 1986, TVA's harassment of workers and engineers stops the flow of critical information about safety problems to upper-level TVA management and to the NRC. Thus, harassment and intimidation of nuclear engineers and workers is itself a serious safety problem.

Last Friday, the U.S. Department of Labor issued a finding that TVA had refused to renew and/or extend nuclear engineer Andrew Bartlik's contract with TVA because he identified problems with TVA's Appendix R Program at Sequoyah, and "because of his vigorous approach to the raising of nuclear safety issues." I have attached a copy of the finding to this letter. Carol Merchant, Supervisor in the Knoxville DOL Office, informed Jane Axelrod of this finding on Friday, and indicated that DOL would make its files available to the NRC as requested.

Ms. Axelrod indicated to me on Wednesday of last week that if the Department of Labor made a finding that TVA discriminated against Mr. Bartlik because of his safety findings the NRC would have to take another look at the harassment and intimidation issue as a restart issue. (Ms. Axelrod had previously informed me that the Office of Special Projects [OSP] did not consider harassment a restart issue since the Office of Investigations

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findings of TVA harassment were for the period of 1985 until early 1986, and did not extend throughout the period when Steven White was TVA's Manager of Nuclear Power.) Ms. Axelrod also indicated to Ms. Merchant that the OSP would take a new look at the harassment issue in light of the DOL finding of discrimination in Mr. Bartlik's case.

As I told Ms. Axelrod and Steve Richardson earlier, there are many other examples of TVA's recent harassment of engineers and workers to retaliate against them for their safety findings. In particular, TVA nuclear engineer James C. Jones and other TVA employees have charged that Mr. White deliberately distorted the performance appraisal system for FY 1987 in order to punish those employees who continue to identify safety problems in TVA's nuclear power program. In fact, many TVA employees believe that TVA harassment has grown worse during Mr. White's tenure at TVA than before Mr. White came to TVA.

Again, I urge you to reopen your inquiry into the entire issue of harassment and intimidation prior to the restart of Sequoyah to assure yourselves that, as in the past, TVA's harassment of its workers is not blocking the identification and resolution of serious safety problems at Sequoyah and other TVA reactors.

Sincerely,



Lynne Bernabei

cc: Carol Merchant
Chairman Lando Zech
Commissioner Frederick M. Bernthal
Commissioner Thomas M. Roberts
Commissioner Kenneth M. Carr
Commissioner Kenneth Rogers
Chairman John D. Dingell, House Committee on Energy and
Commerce
Chairman Morris K. Udall, House Committee on Interior and
Insular Affairs

/am

U.S. Department of Labor

March 11, 1988

Employment Standards Administration
Wage and Hour Division

P. O. Box 111300
Nashville, TN 37222-1300
(615) 736-5452



Hand Delivered

Mr. Steven A. White
Manager of Nuclear Power
Tennessee Valley Authority
6N 38A Lookout Place
Chattanooga, TN 37402-2801

Re: Andrew Bartlik v. Tennessee Valley Authority

Dear Mr. White:

This letter is to notify you of the results of our compliance actions in the above case. As you know, Andrew Bartlik filed a complaint with the Secretary of Labor under the Energy Reorganization Act, Public Law 95-601, Section 210, 42 USC 5851, on January 26, 1988. A copy of the complaint, a copy of Regulations 29 CFR Part 24 and a copy of the pertinent section of the statute were furnished in a previous letter from this office.

Our initial efforts to conciliate the matter revealed that the parties would not at that time reach a mutually agreeable settlement. An investigation was then conducted. Based on our investigation, the weight of evidence to date indicates that Andrew Bartlik was a protected employee engaging in a protected activity within the ambit of the Energy Reorganization Act, and that discrimination as defined and prohibited by the statute was a factor in the actions which comprise his complaint. The following disclosures were persuasive in this determination:

1. TVA is an employer subject to the Act;
2. Andrew Bartlik was discriminated against by TVA's refusal to extend or renew his contract;
3. The discrimination arose because of Mr. Bartlik's identification of problems with TVA's Appendix R program at Sequoyah Nuclear Plant and because of his vigorous approach to the raising of nuclear safety issues.

This letter will notify you that the following actions are required to abate the violations and provide any appropriate relief:

1. Restore Andrew Bartlik to his position or a comparable position with all compensation, term, conditions and privileges of his employment;

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Re: Andrew Bartlik v. TVA

2. Compensate him for lost back pay from the end of his employment with TVA, November 25, 1987;
3. Cease all discrimination against him in any manner with respect to his compensation, terms, conditions and privileges of employment because of any action protected by the Energy Reorganization Act; and
4. Pay to him a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for or in connection with the bringing of the complaint upon which this order is issued.

This letter will also notify you that if you wish to appeal the above findings and remedy, you have a right to a formal hearing on the record. To exercise this right you must, within five(5) calendar days of receipt of this letter, file your request for a hearing by telegram to:

The Chief Administrative Law Judge
U. S. Department of Labor
Suite 700, Vanguard Building
1111 - 20th Street, N. W.
Washington, D. C. 20036.

Unless a telegram request is received by the Chief Administrative Law Judge within the five-day period, this notice of determination and remedial action will become the final order of the Secretary of Labor. By copy of this letter I am advising Andrew Bartlik of the determination and right to a hearing. A copy of this letter and the complaint have also been sent to the Chief Administrative Law Judge. If you decide to request a hearing, it will be necessary for you to send copies of the telegram to Andrew Bartlik and to me at the U. S. Department of Labor, ESA, Wage and Hour Division, P. O. Box 111300, Nashville, TN 37222-1300. After I receive the copy of your request, appropriate preparations for the hearing can be made. If you have any questions, do not hesitate to call me at (615) 736-5452.

It should be made clear to all parties that the role of the Department of Labor is not to represent the parties in any hearing. The Department would be neutral in such a hearing which is simply part of the fact-development process and only allows the parties an opportunity to present evidence for the record. If there is a hearing, an Order of the Secretary shall be based upon the record made at said hearing and shall either provide appropriate relief or deny the complaint.

Mr. Steven A. White

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Re: Andrew Bartlik v. TVA

Sincerely,

Bennie L. Edwards
C.R.M.

Bennie L. Edwards
Area Director

cc: The Chief Administrative Law Judge
Norman Zigrossi, TVA
NRC, Atlanta
Lynne Bernabei, Esquire
Andrew Bartlik
Jane Axlered, NRC