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NRC STAFF PROPOSES \$200,000 FINE AGAINST
TENNESSEE VALLEY AUTHORITY FOR EMPLOYEE DISCRIMINATION

The Nuclear Regulatory Commission staff is proposing to fine the Tennessee Valley Authority \$200,000 for two incidences of discrimination against employees who brought nuclear safety concerns to the attention of TVA management since November 22, 1988. In addition, the staff references 24 other incidences of discrimination complaints filed with the Department of Labor since that time and cites TVA for violations involving two additional complaints which were filed with the Department of Labor prior to November 22, 1988.

The two incidences for which individual \$100,000 fines are proposed involved:

-- the discharge, in a reduction-in-force which took effect on June 16, 1989, of William DeFord, who was employed as a "Senior Specialist" in TVA's Engineering Assurance Department; a Department of Labor Administrative Law Judge later determined that Mr. DeFord's discharge was an act of retaliation for engaging in protected activities including the submittal of a March 1989 letter to TVA's Board Chairman which outlined concerns about safety and management's inattention to existing safety problems; and

-- discrimination against Doris M. Luksic, a Project Engineer/Technical Evaluator at the Watts Bar nuclear power plant who wrote "Conditions Adverse to Quality Reports" (CAQRs) pertaining to nuclear safety; the District Director of the Department of Labor's Employment Standards Administration, Wage and Hour Division in Nashville, Tennessee, found, as the result of an investigation, that Ms. Luksic had been discriminated against during the period from January 1989 to June 1989 for writing the CAQRs--specifically, her name was removed from the Independent Qualified Reviewers List; she was not reinstated to the list for Operations/Technical Specifications in June 1989; efforts of members of Operations management at the Watts Bar facility interfered with her selection for a position as Project Engineer in September 1988; and operations personnel generally engaged in harassment of her.

The citation involving Mr. DeFord has been characterized as a Severity Level 1 violation (on a scale where Level 1 is the most serious kind of violation and Level 5 is the least serious). The citation involving Ms. Luksic has been characterized as Severity Level 2.

The significance with which the NRC views these violations is emphasized by the fact that the violation involving discrimination against Mr. DeFord is the highest severity level violation ever issued to a power reactor licensee for a discrimination violation and the first Severity Level 1 violation issued to a power reactor licensee for any violation since 1985. The civil penalties for these violations have been set at the statutorily-authorized maximum amount, without considering any possible mitigating factors, in order to emphasize the seriousness with which the NRC views TVA's history in the discrimination area and to make it clear that the NRC will not tolerate discrimination by NRC licensees.

TVA also is being cited for two other Severity Level 2 violations of NRC requirements governing discrimination against employees; however, fines are not proposed because the complaints were filed prior to November 22, 1988, and the Statute of Limitations has run out.

Previously, in July 1986 and April 1990, TVA was fined \$150,000 and \$240,000 respectively for multiple violations of NRC requirements governing discrimination against employees who raised safety concerns.

The 1990 fine was specifically intended to address not only the specific violations which occurred during the period of time in which Steven A. White was TVA's Manager of Nuclear Power but also the atmosphere which existed at the utility's nuclear power plant sites during his tenure. To that end, the \$240,000 fine was considered by the NRC staff to effect closure on most of the complaints filed up to the time of Mr. White's departure from TVA on November 22, 1988.

The Tennessee Valley Authority now has 30 days to reply in writing to the current "Notice of Violation" except for one citation where a reply may be delayed until 30 days after a final decision by the Secretary of Labor in that case. In addition, TVA may pay the fine as proposed or protest its imposition in whole or in part. The utility also is required to admit or deny each violation, the reasons for it if admitted, the reasons why if denied, the corrective steps that have been taken and the results achieved, the corrective steps that will be taken to avoid further violations and the date when full compliance with NRC requirements will be achieved.

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