

OFFICE OF ENFORCEMENT
NOTIFICATION OF SIGNIFICANT ENFORCEMENT ACTION

Licensee: FirstEnergy Nuclear Operating Company (EA 99-012)
Perry Nuclear Power Plant
Docket No. 050-440

Subject: PROPOSED IMPOSITION OF CIVIL PENALTY - \$110,000

By EN 99-019, dated May 17 1999, the staff informed the Commission of its intent to issue a Notice of Violation and proposed Imposition of Civil Penalties in the amount of \$110,000 to First Energy Nuclear Operating Company (FENOC) in connection with a violation of the NRC's employee protection regulation (10 CFR 50.7) which occurred at the perry Plant in July 1997. The Notice of Violation was issued on May 20, 1999 and FENOC replied on February 25, 2000, denying the violation and requesting that the differences in perspective in this case be resolved through an Alternative Dispute Resolution (ADR) process. After Commission consultation, the agency formally denied, by letter dated July 26, 2000 FENOC's request to employ ADR citing that the Commission's current regulatory process does not specifically provide for the use of ADR in the enforcement arena and that its use in discrimination cases poses unique concerns.

The issue in this case is that the staff determined that FENOC's Radiation Protection Manager (RPM) discriminated against a Radiation Protection Supervisor (RPS) for engaging in protected activities. The RPS's protected activities pertained to a July 17, 1997, deposition that the RPS was to give in a Department of Labor (DOL) hearing concerning alleged employment discrimination against another individual at the Perry facility. The discrimination consisted of a July 16, 1997 verbal counseling and the placement of a memorandum documenting the verbal counseling in the RPS's personnel file.

Accordingly, an Order Imposing Civil Monetary Penalties in the Amount of \$110,000 is being issued. Under the terms of the Order, the licensee may, within 30 days of the date of the Order, pay the civil penalties or request a hearing. Additionally, in the agency's July 26, 2000 letter, the staff stated it is prepared to meet with the licensee prior to its making a formal request for a hearing to discuss the process for the resolution of enforcement matters.

The schedule of issuance and notification is:

Mailing of Order	August 3, 2000
Telephone Notification of Licensee	August 3, 2000

The State of Ohio will be notified.

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PRELIMINARY INFORMATION - NOT FOR PUBLIC DISCLOSURE UNTIL
VERIFICATION THAT LICENSEE HAS RECEIVED ACTION