

October 10, 2001
EN 01-037

OFFICE OF ENFORCEMENT
NOTIFICATION OF SIGNIFICANT ENFORCEMENT ACTION

Licensee: Tennessee Valley Authority (EA-98-327)
Watts Bar
Docket No. 50-390

Subject: PROPOSED IMPOSITION OF CIVIL PENALTY - \$88,000

This is to inform the Commission that a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$88,000 will be issued on or about October 15, 2001, to Tennessee Valley Authority (TVA). This action is based on a Severity Level II violation which was identified as a result of NRC's review of two Department of Labor (DOL) adjudicatory decisions. These DOL decisions involved a former power maintenance specialist who was discriminated against by TVA management as a result of having engaged in protected activities. Specifically, the maintenance specialist had raised safety concerns involving the Watts Bar Nuclear Plant ice condenser. Based on these protected activities, the DOL found that the maintenance specialist was transferred to another organization, and then, for failing to re-gain employment, the maintenance specialist was eventually laid-off from that organization.

Given that the violation of 10 CFR 50.7 was caused by TVA management who were at least mid-level management, it is categorized at Severity Level II in accordance with the NRC Enforcement Policy. Because the violation is a Severity Level II, the staff considered whether credit is warranted for *Identification and Corrective Action* in accordance with the civil penalty assessment process in Section VI.B.2 of the Enforcement Policy. No credit is warranted for *Identification* since the licensee did not identify the discriminatory actions. With respect to corrective actions, TVA took actions to comply with DOL orders in the case, and took a number of actions to improve the environment at the facility as documented in letters to the NRC dated August 18, 1997 and July 17, 2001, such that credit for *Corrective Action* is warranted. Therefore, the staff proposed the civil penalty at the base amount of \$88,000.

It should be noted that the licensee has not been specifically informed of the enforcement action. The schedule of issuance and notification is:

Mailing of Notice	October 15, 2001
Telephone Notification of Licensee	October 15, 2001

The State of Tennessee will be notified.

The licensee has thirty days from the date of issuance of a Court of Appeals decision on the licensee's appeal of the DOL ruling in which to respond. Following NRC evaluation of the response, the civil penalty may be remitted, mitigated, or imposed by Order.

Other References: DOL ALJ 97-ERA-0053 and DOL ARB 98-111 and 98-128.

Contacts: Nick Hilton, OE, (301) 415-3055; Scott Sparks, RII, (404) 562-4422

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