

United States Nuclear Regulatory Commission
Office of Public Affairs
Washington, DC 20555
Phone 301-415-8200 Fax 301-415-2234
Internet: opa@nrc.gov

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NRC PROPOSES \$160,000 FINE FOR HL&P IN WHISTLEBLOWER DISCRIMINATION CASE

The Nuclear Regulatory Commission staff has informed Houston Lighting & Power Company that it proposes to fine the utility \$160,000 for the 1992 firing of two security guards who raised safety concerns at the company's South Texas Project nuclear power plant.

On April 6 an administrative law judge at the Department of Labor ruled that the two former employees of HL&P's nuclear security department, James J. Dean and David R. Lamb, were fired on May 4, 1992, in retaliation for having identified and reported safety concerns to the NRC. HL&P has appealed that decision to the Secretary of Labor, maintaining that the two were terminated as part of a routine reduction in the security staff. The Secretary's decision is pending.

The NRC's Office of Inspector General conducted an investigation into the firings and issued a report in February 1993. The NRC also issued Demands for Information on September 29, 1993, to HL&P and Richard L. Balcom, the manager of the Nuclear Security Department who fired the two guards. The report concluded that NRC rules regarding whistleblowers were violated. However, the staff deferred taking action in the case while awaiting the Department of Labor ruling, a review of information obtained from the Demands, and review of information from a predecisional enforcement conference held on June 16, 1995.

The total fine represents two Severity Level II violations that carry a base civil penalty of \$80,000 each. In a letter to William T. Cottle, vice president for nuclear operations at the South Texas Project, L. Joe Callan, Regional Administrator for NRC Region IV, said, "I considered . . . increasing the base civil penalty to the statutory maximum civil penalty amount of \$100,000 for each of the two violations. However, after considering the efforts that HL&P has undertaken to improve its programs to identify and correct employee-identified plant problems without fear of licensee management reprisals . . . I have been authorized to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$160,000, \$80,000 for each of the two violations."

Mr. Balcom, the former manager of HL&P's Nuclear Security Department who fired the two security guards, has also been issued a Notice of Violation. The NRC has not

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required that Mr. Balcom be removed from licensed activities and he has not been fined in the case:

In a letter to Mr. Balcom, Mr. Callan said, "As the then manager of the Nuclear Security Department, you were in a position that conferred upon you trust and confidence in your ability to effectively manage and promote the safe operation of that facility. In that position, you were responsible for the professional treatment of all individuals who bring forward safety concerns. Your actions did not adhere to these standards, and did not provide an appropriate example for those individuals under your supervision . . . rather your actions in this matter created a potential chilling effect towards other station personnel identifying safety concerns."

HL&P and Mr. Balcom are required to submit written statements or explanations to the NRC within 30 days. However, portions of the required responses and payment of the proposed fine may be deferred until 30 days following the final decision of the Secretary of Labor in their appeal of the case. The reply must include admission or denial of the alleged violations, reasons for the violations if admitted or reasons why if denied, corrective actions taken and steps taken to avoid further violations and the date when full compliance will be achieved.

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