

United States Nuclear Regulatory Commission
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NRC STAFF PROPOSES \$100,000 FINE FOR APS
IN PALO VERDE WHISTLEBLOWER CASE

The Nuclear Regulatory Commission staff has proposed a \$100,000 fine against the Arizona Public Service Co. for a violation of NRC requirements that protect employees who raise safety concerns from discrimination. APS operates the Palo Verde Nuclear Generating Station 50 miles west of Phoenix.

A Department of Labor proceeding and a subsequent NRC investigation determined that Thomas Saporito was unlawfully discriminated against in December 1991 when an APS supervisor did not select him to work on a Palo Verde Unit 1 refueling outage. Mr. Saporito, an instrumentation and control technician, worked for a contractor, The Atlantic Group.

Mr. Saporito alleged that the APS supervisor discriminated against him because he had made nuclear safety-related complaints in the past at Palo Verde and other nuclear plants and filed a complaint with the U.S. Department of Labor. In May 1993 a DOL administrative law judge issued a decision that found APS had discriminated against Mr. Saporito.

The supervisor was terminated by APS and later admitted in U.S. District Court that he had discriminated against Mr. Saporito. Last September, he was fined \$50 and sentenced to a year's probation for the wrongdoing. In 1993, APS and Mr. Saporito reached a settlement of the case filed before the Department of Labor.

L. Joe Callan, Regional Administrator of the NRC Region IV office in Arlington, Texas, informed APS of the fine in a letter on Thursday.

"...[T]his violation is significant because it went undiscovered and uncorrected for more than 19 months, during which time the overall environment at Palo Verde for raising safety concerns was in need of substantial attention," Mr. Callan said.

"In addition, while APS eventually reported this violation to the NRC, the report came only after [the APS supervisor] had

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admitted to APS' attorneys that he provided false information concerning his actions to the ALJ [administrative law judge].''

The supervisor admitted to APS attorneys in August 1993 that he had discriminated against Mr. Saporito.

Mr. Callan indicated the NRC recognizes that APS has taken corrective actions to assure an environment in which employees and contractors may feel free to raise safety concerns without fear of retaliation. He said the NRC does not disagree with APS' assertion that the improved environment is evidenced by statistics and employee surveys.

The NRC categorized the violation as a Severity Level III. The NRC enforcement system uses four Severity Levels, with Level I the most serious.

APS has 30 days to reply to the citation. During that time, it may pay the fine or protest it. If a protest is denied and the fine is imposed, the company may ask for a hearing.

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