

## Judge Rules For Fired Contractor At WASA

### Worker Reported Faulty Gas Alarms

By Karlyn Barker

Washington Post Staff Writer

Thursday, July 14, 2005; Page B04

The D.C. Water and Sewer Authority violated whistle-blower laws and is liable for damages because it had a contractor removed from his job after he raised safety concerns at the Blue Plains sewage treatment plant, a judge ruled this week.

James J. Bobreski had good reasons to be concerned about dangers to himself and the public when he warned in 1999 that safety alarms at the plant were malfunctioning, the judge said. Bobreski alerted the city to the risks of a hazardous chlorine gas leak and the faulty alarm system at the Southwest Washington plant.



James J. Bobreski was working as a contractor at the Blue Plains treatment plant in 1999 when he raised concerns about faulty chlorine gas alarms.

The judge found that Bobreski unfairly lost his job after he warned supervisors that four gas sensors had failed. He then went public with his concerns by contacting The Washington Post. In both instances, he had whistle-blower protection, according to the opinion released Monday by Alice M. Craft, an administrative law judge from the U.S. Department of Labor.

"The record suggests that [Bobreski's] 'by the book' approach to his work caused some conflicts with WASA employees used to making 'seat of the pants' repairs to old equipment subject to frequent breakdown," Craft wrote.

Blue Plains officials made repairs after the trouble became public. Bobreski later challenged his dismissal by filing a whistle-blower protection complaint. In March 2001, the Labor Department ordered WASA to pay Bobreski \$56,000 in fines, including \$10,000 in punitive damages, plus legal fees. WASA executives, who said Bobreski was discharged for poor work performance, appealed that order and requested a hearing before the administrative law judge.

The judge wrote that WASA officials who testified during the hearing lacked credibility. One, she said, "was defensive and argumentative, and took no responsibility for problems with the chlorine detection system" and other issues at the plant.

Jerry N. Johnson, WASA's general manager, said yesterday that the authority's general counsel had not yet seen Craft's 55-page ruling, which was sent to WASA's outside attorneys. He said he could not comment before reading her decision.

"Mr. Bobreski has never been an employee of the D.C. Water and Sewer Authority," Johnson said. "That is one of the reasons we appealed the last time around."

Bobreski, who worked for J. Givoo Consultants, was assigned to the Blue Plains plant as a systems control technician in July 1999 and discharged in October of that year. A Labor Department investigation found that soon after he raised concerns about the alarm system, a WASA official told Givoo that it would lose its WASA contract if it did not remove Bobreski from his job of testing the plant's safety equipment.

Bobreski, now 49, said yesterday that he felt vindicated.

"It's been an uphill battle between everything said about me and my reputation," he said. "It's been an ordeal."

After going public with his safety concerns, Bobreski left his Arlington County home and moved to Upstate New York. He now is a technician for nuclear power plants across the country. He said he filed his claim to get justice.

"When I was working there, it was just plain dangerous," he said. "I couldn't believe the federal authorities weren't doing anything. I tried to get [people] to pay attention, and nobody would listen."

In her ruling, Craft said Bobreski was entitled to be reinstated to his former position, with back pay and benefits. She also said Bobreski was entitled to compensatory and punitive damages, as well as legal fees, to be determined later.

Bobreski's attorney, Michael D. Kohn of the National Whistleblower Legal Defense and Education Fund, said yesterday that he plans to seek more than \$2.9 million in punitive damages for his client.

"This case is destined to be the test case establishing the extent in which punitive damages can be awarded under the federal environmental whistleblower statutes as the facts establish that WASA engaged [in] criminal malfeasance that directly jeopardized the lives of tens of thousands of American citizens," Kohn said.

Kohn said he will base his claim for damages, in part, on WASA's attempts to blame Bobreski for the safety problems.