

<sup>Ex 61</sup>  
**Background-** [REDACTED] DPV takes exception with the processing of a violation of 10 CFR 50.70 observed by the Turkey Point Resident Inspector on January 18, 2002, as an NCV. He contends that this issue, which involved announcing an inspector's presence contrary to the requirements of the regulation, would have been better processed as a violation.

<sup>Ex 61</sup>  
**Documentation-** The team reviewed the DPV filed [REDACTED] Turkey Point [REDACTED] which documented the NCV in question, and the meeting minutes for the ARB of February 5, 2002 where the issue was presented for OI consideration. Additional NRC documentation such as the management directive associated with DPVs, the statements of consideration for 10 CFR 50.70 and 10 CFR 50.5, the enforcement policy, and selected regional office instructions was also reviewed by members of the panel. The panel also reviewed the licensee's corrective action document which captured the issue.

**Interviews-** The following persons were interviewed by members of the panel:

[REDACTED]  
Carolyn Evans - Regional Counsel/EICS Director  
Randy Musser- Acting Branch Chief  
Son Ninh- Project Engineer/Acting Branch Chief  
Victor McCree- Deputy Division Director DRP  
Len Williamson- Acting OI Director

### Findings-

- <sup>Ex 61</sup>
1. The panel disagreed with [REDACTED] assertions that processing this issue as an NCV instead of as a violation somehow diminished the ability of the licensee to address the root cause of the issue. [REDACTED] is correct, the licensee's investigation (as described in the condition report) did arrive at a different conclusion as to what happened than the residents did. However, the corrective actions identified by the licensee are sufficient to address the situation and would probably address most reasonable causes.
  2. The panel agrees that announcing the presence of NRC inspectors can impact the ability of NRC inspectors to monitor licensee activities. However, the panel did not find that processing the issue as an
  3. The panel reviewed the criteria for processing an issue as an NCV instead of as a violation. For the most part the criteria were satisfied. However, it was not clear to the panel how the NRC staff decided that the violation was not willful. It appears that some members of the staff assumed that OI declining to investigate