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FINAL REPLY:

Thomas Saporito
National Environmental Protection Center

TO:

EDO

FOR SIGNATURE OF : ** GRN **

CRC NO:

Dyer, NRR

DESC:

ROUTING:

2.206 - Turkey Point

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SPECIAL INSTRUCTIONS OR REMARKS:

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E-RIDS: EDO-01

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"My life belongs to the whole community, and as long as I live, it is my privilege to do for it whatsoever I can. I want to be thoroughly used up when I die, for the harder I work, the more I live. I rejoice in life for its own sake. Life is no "brief candle" to me. It is a sort of splendid torch which I have got hold of for the moment, and I want to make it burn as brightly as possible before handing it on to future generations." - George Bernard Shaw, 1907

June 10, 2004

Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20500

**RE: Request for Enforcement Action Under 10 C.F.R. 2.206
Docket No. 50-250, Turkey Point Unit-3**

The National Environmental Protection Center ("NEPC") by and through its undersigned executive director, hereby submits a petition under Title 10 of the Code of Federal Regulations at Section 2.206 requesting that the U.S. Nuclear Regulatory Commission ("NRC") take immediate enforcement action against its licensee, the Florida Power & Light Company ("FPL") (hereinafter "licensee") as requested below:

A. Request for Enforcement Action

1. NEPC requests that the NRC act to cause the immediate shut down of the licensees' Turkey Point Unit-3 nuclear power station.
2. NEPC requests that the NRC immediately reinstate all safety inspection requirements in Order EA-03-009 in its entirety.
3. NEPC requests that the NRC Office of the Inspector General investigate whether the NRC staff acted improperly in granting the licensee a relaxation from the safety inspection requirements set out in NRC Order EA-03-009 on May 25, 2004; and whether NRC staff acted properly in relaxing certain and specific safety inspection requirements previously required to be performed by the licensee under Section IV, paragraph C.(1)(b) (i) of the Order for 65 RPV head penetration nozzles which had incomplete UT; and whether the

NRC Staff's actions in relaxing certain safety inspection requirements in Order EA-03-009 jeopardized public health and safety regarding continued operation of the licensee's Turkey Point Unit-3 nuclear power station.

B. Basis for Request for Enforcement Action

On May 25, 2004, the NRC issued "TURKEY POINT UNIT 3-RELAXATION OF THE REQUIREMENTS OF ORDER (EA-03-009) REGARDING REACTOR PRESSURE VESSEL HEAD INSPECTIONS (TAC NO. MC1740)." Thus, the NRC granted the licensee relaxation from certain and specific inspection criteria required under Section IV, paragraph C.(1)(b) (i) as follows:

"The U.S. Nuclear Regulatory Commission has approved your request for relaxation of the requirements of "Order Modifying Licensees (Effective Immediately)," EA-03-009 (Order), Paragraph C.(1)(b)(i) requiring specific inspections of the reactor pressure vessel (RPV) head and associated penetration nozzles at pressurized water reactors, for Turkey Point Unit 3 (TP3). By letters dated December 19, 2003 and March 24, 2004, Florida Power and Light requested relaxation for TP3, of the requirements to perform the prescribed ultrasonic testing (UT) inside the tube from 2 inches above the J-groove weld to the bottom of the penetration for one RPV head penetration. Specifically, you requested a reduction of the examination coverage area for 65 nozzles. . . "

See NRC May 25, 2004 letter to licensee Mr. J.A. Stall @ 1.

The NRC staff conceded that their granting the licensee relaxation from the safety inspection requirements set out in EA-03-009, Section IV, paragraph C.(1)(b) (i) was based on a mere **assumption** and **unproven** safety analysis and crack growth formulas as follows:

1. The NRC staff has never approved industry report MRP-55 as an acceptable basis to analyze crack growth in Uts on RPVs at any of its licensees. Nonetheless, the NRC staff granted FPL relaxation from the UT **safety** inspection requirements¹ at Section IV, paragraph C.(1)(b)

¹ Section IV.C.(1)(b) of Order EA-03-009 requires, in part, that the following inspections be performed every refueling outage for high susceptibility plants similar to TP3: Either, (i) Ultrasonic testing of each RPV head penetration nozzle (i.e., nozzle base material) from two (2) inches above the J-groove weld to the bottom of the nozzle and an assessment to determine if leakage has occurred into the interference fit zone, OR (ii) Eddy current testing or dye penetrant testing of the wetted surface of each J-groove

- (i) based on industry report MRP-55. See, *NRC letter to FPL J.A. Stall @ 1 (May 25, 2004)*; and
2. Because the NRC has never approved industry report MRP-55, the NRC's (May 25, 2004) Safety Evaluation is **bogus** and not based on proven crack growth formulas which meet the rigors of safety inspection requirements under 10 C.F.R. 50 and at Section IV, paragraph C.(1)(b) (i); and
 3. The licensee's basis and justification in requesting NRC's relaxation to safety inspection requirements set out in EA-03-009 are merely assumptions by the licensee with respect to unproven and (unaccepted NRC crack growth formulas) described in Westinghouse WCAP-16027-P. Thus, the licensee merely made assumptions regarding its evaluation of a through-wall flaw in the nozzle material from the bottom of the penetration to 1 inch from the bottom of the weld. See, *NRC (May 25, 2004) Safety Evaluation @ 4*;
 4. The NRC staff admits that the licensee's analysis in WCAP-16027-P, Rev.0, used the crack growth formula in Electric Power Research Institute Report Material Reliability Program (MRP) report MRP-55, "Material Reliability Program (MRP) Crack Growth Rates for Evaluating Primary Water Stress Corrosion Cracking (PWSCC) of Thick Wall Alloy 600 Material (MRP-55), Revision 1." See, *NRC (May 25, 2004) Safety Evaluation @ 4*; and
 5. The NRC staff admits that, ". . . The NRC staff has. . . not yet made a final determination on the acceptability of the subject industry report [MRP-55]. See, *NRC (May 25, 2004) Safety Evaluation @ 4-5*.

C. Conclusion

Examination of the 65 RPV head penetration nozzles in accordance with Section IV, paragraph C.(1)(b), of EA-03-009 would **NOT** result in hardship without a compensating increase in the level of quality and safety. Further, the licensee's proposed alternative examination of the 53 RPV head penetration nozzles from 2 inches above the J-groove weld to a level at least 1 inch below the J-groove weld does **NOT** provide reasonable assurance of the structural integrity of the RPV head, VHP nozzles and welds. Thus, the licensee has not demonstrated "good cause" in accordance with Section IV,

weld and RPV head penetration nozzle base material to at least two (2) inches above the J-groove weld. See, *10 C.F.R. 50*.

paragraph F of EA-03-009, for any relaxation of the safety inspection requirements imposed upon the licensee therein.

Therefore, for good cause shown, and pursuant to 10 C.F.R. 2.206 and in the interest of public health and safety, NEPC urges the NRC to **GRANT** the requests made upon the NRC in this petition.

Respectfully submitted,



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