

EDO Principal Correspondence Control

FROM: DUE: 02/05/10

EDO CONTROL: G20100009

DOC DT: 01/05/10

FINAL REPLY:

Thomas Saporito
Jupiter, Florida

TO:

Chairman Jaczko

FOR SIGNATURE OF :

** GRN **

CRC NO: 10-0007

Leeds, NRR

DESC:

ROUTING:

2.206 - FLA Power and Light Company, Turkey Point
Nuclear Plant, Loss of Reasonable Assurance for
Safe Operation in Full Compliance with NRC
Regulations (EDATS: SECY-2010-0017)

Borchardt
Virgilio
Mallett
Ash
Mamish
Burns/Rothschild
Reyes, RII
Zimmerman, OE
Caputo, OI
Burns, OGC
Baggett, OEDO

DATE: 01/06/10

ASSIGNED TO:

CONTACT:

NRR

Leeds

SPECIAL INSTRUCTIONS OR REMARKS:

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EDATS

Electronic Document and Action Tracking System

EDATS Number: SECY-2010-0017

Source: SECY

General Information

Assigned To: NRR

OEDO Due Date: 2/5/2010

Other Assignees:

SECY Due Date: NONE

Subject: Florida Power and Light Company, Turkey Point Nuclear Plant, Loss of Reasonable Assurance for Safe Operation in Full Compliance with NRC Regulations

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Response/Package: NONE

Other Information

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OEDO Monthly Report Item: NO

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Signature Level: NRR

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Urgency: NO

Approval Level: No Approval Required

OEDO Concurrence: NO

OCM Concurrence: NO

OCA Concurrence: NO

Special Instructions:

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Addressee: Chairman Jaczko

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Incoming Task Received: Letter

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Jan 06, 2010 08:15

PAPER NUMBER: LTR-10-0007

LOGGING DATE: 01/05/2010

ACTION OFFICE: EDO

AUTHOR: Thomas Saporitio

AFFILIATION: FL

ADDRESSEE: Gregory Jaczko

SUBJECT: Florida Power and Light Company, Turkey Point Nuclear Point, loss of reasonable assurance for safe operation in full compliance with NRC regulations

ACTION: Appropriate

DISTRIBUTION: Chairman, Comrs, OGC

LETTER DATE: 01/05/2010

ACKNOWLEDGED No

SPECIAL HANDLING: ~~Made publicly available in ADAMS via EDO/DPC~~

NOTES:

FILE LOCATION: ~~ADAMS~~

DATE DUE:

DATE SIGNED:

From the Desk of Thomas Saporito

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Electronic Mail: saporito3@gmail.com

05 JAN 2010

Hon. Gregory B. Jaczko, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

In re: Florida Power and Light Company, Turkey Point Nuclear Plant, Loss of Reasonable Assurance for Safe Operation in Full Compliance With NRC Regulations

Dear Chairman Jaczko:

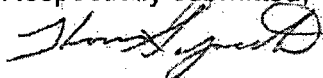
Enclosed, please find a document dated January 4, 2010, recorded for the record by the Florida Public Service Commission (FPSC) which clearly alleges wrongdoing on the part of executive management at the very highest levels of the Florida Power and Light Company (FPL) over the protests of several employees at that company. Although the issues of wrongdoing identified in this particular document are relevant to FPL operations at non-nuclear FPL facilities, it is extremely important that the U.S. Nuclear Regulatory Commission (NRC) focus resources on FPL's nuclear operations which are directly or indirectly affected by one or more of the executive managers identified in the FPSC document. Notably, the author(s) of the FPSC document did not come forward with this information earlier for fear of retaliation by FPL management and to this date, remain scared to identify themselves in this FPSC document. The undersigned has complained to the NRC for the better part of 20-years about the severe chilling effect which currently exists at the FPL Turkey Point Nuclear Plant (TPN) and which has spread to the FPL St. Lucie Nuclear Plant (SLN) over the years. Despite the fact that the undersigned has material and relevant information to prove the existence of a severe chilling effect at the FPL TPN facility, the NRC has adamantly refused to engage the agency's Office of Investigation (OI) to formally interview the undersigned on the record to recover this information and evidence. I strongly suspect that the NRC is in "bed" with FPL and the entire nuclear industry in a collaboration to protect and sustain NRC jobs, including but not limited, to the NRC Chairman's job.

Also enclosed, is a copy of a Miami Herald newspaper article entitled "Court records reveal trouble at Turkey Point". This article clearly demonstrates the existence of a severe "chilling" effect existing at the FPL TPN facility where employees are dissuaded from freely raising nuclear safety concerns to anyone for fear of retaliation by FPL management. Notably, the NRC OI apparently investigate the constructive discharge of David Hoffman (Hoffman), a former senior licensed reactor operator at the TPN facility. The NRC OI apparently concluded that Hoffman was not illegally discriminated against by FPL for raising nuclear safety concerns; however, the evidence of record clearly points to the very opposite conclusion that Hoffman was constructively discharged. In deed, FPL executive managers attempted to intimidate and force Hoffman to restart a tripped nuclear reactor in less than 12-hours over Hoffman's objections and to focus the operations department around bringing the reactor to

power based on a time-table instead of safety parameters involved in that process. Hoffman was forced to resign his job at TPN to protect his own NRC license and for no other reason. To conclude otherwise, as did the NRC OI, strains the mind of a reasonable person and points to collusion between the NRC and FPL leaving public health and safety hanging in the balance unprotected from the vigilance of safety minded people like Hoffman. The newspaper article also mentions Paul Infanger (Infanger) who was fired by FPL executive management after [he] raised the most serious nuclear safety concern of all, that workers at the FPL TPN facility did not use the FPL Employee Concerns Program (ECP) for fear of retaliation by FPL management. Infanger and FPL settled a U.S. Department of Labor (DOL) whistleblower law suit for about \$190,000 dollars which also released Infanger from repaying tens of thousands of dollars back to FPL related to bonus pay (hush money) that Infanger received in accepting employment at FPL. Hoffman, on the other hand, is being sued by FPL to recover tens of thousands of dollars in bonus money paid to him. Notably, the NRC through NRC employee Andrew Kugler, found that FPL's employee bonus money agreement documentation did not dissuade employees from raising nuclear safety concerns. However, Mr. Kugler's conclusion was not based in fact or on any apparent or credible investigation by the NRC. Clearly, any FPL TPN employee who could be sued by FPL for tens of thousands of dollars for placing FPL in a bad light by raising nuclear safety concerns, would certainly be dissuaded from raising nuclear safety concerns. That conclusion is common sense and requires no investigation by the NRC. Again, the evidence of record points to collusion between the NRC and FPL leaving the health and safety of the public in grave jeopardy.

For all the foregoing reasons, FPL, a licensee of the NRC, simply can no longer provide the NRC with any measure of reasonable assurance that the licensee will operate its nuclear facilities in full compliance with NRC safety regulations under 10 C.F.R. Part 50. Therefore, the undersigned respectfully requests that the NRC issue a confirmatory order requiring the licensee, FPL, to immediately place the SLN and the TPN facilities in "cold-shut" down until such time as the NRC can make a full assessment of the work environments at those facilities and credibly determine whether employees at those facilities are free, and feel free, to raise nuclear safety concerns to FPL management or directly to the NRC without fear of retaliation for so doing.

Respectfully submitted,



Thomas Saporito
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Email: saporito3@gmail.com

A copy of the foregoing document was provided to:

Hon. Barack Obama
President of the United States
The White House
1600 Pennsylvania Ave. N.W.
Washington, D.C. 20500

Integrity Committee
Federal Bureau of Investigation
935 Pennsylvania Ave.
Room 3973
Washington, D.C. 20535

Office of the Inspector General
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Florida Public Service Commission
Docket No. 080677-EI
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

STATE OF FLORIDA



PUBLIC SERVICE COMMISSION
2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FL 32399-0850

TO: Thomas Saporito
Fax #: 615619524810

FROM: Office of Commission Clerk

RE:

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STATE OF FLORIDA



PUBLIC SERVICE COMMISSION

2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FL 32399-0850

TO: Thomas Saporito
Fax #: 615619524810

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RE:

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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 4, 2010
TO: Ann Cole, Commission Clerk, Office of Commission Clerk
FROM: Stephen C. Larson, Assistant to Chairman Argenziano
RE: Communication in Docket 080677-EI

Please place the attached letter in the file for the above noted docket and disseminate copies to all parties of record.

RECEIVED-FPSC
10 JAN -4 PM 12:39
COMMISSION
CLERK

DOCUMENT NUMBER-DATE
00006 JAN-4-10
FPSC-COMMISSION CLERK

Juno Beach, Florida

December 2009

Governor Charlie Crist

Attorney General Bill McCollum

PSC Chairman Matthew Carter

~~PSC Commissioner Nancy Argenziano~~

PSC Commissioner Lisa Polak Edgar

PSC Commissioner Nathan A. Skop

PSC Commissioner David E. Klement

Dear Sirs,

We are 3 current senior level management employees of NextEra Energy Resources. We have wanted to alert you about this for some time now but given the stories we have heard in the hallways of the extreme close relationship between our parent company executives and various select commission staff, before now this letter would have been completely fruitless and exposed us to possible severe retaliation.

Under Next Era's prior management team, former CEO's Lew Hay followed by James Robo, there was a deliberately perpetuated scheme, implemented over the protest of many employees, to use the tax attributes (benefits) that rate payers pay for to shield the production tax credits generated by our massive wind portfolio. Changing our name from FPL Energy to NextEra Energy Resources may in part have been designed to purge and erase the prior bad acts, the totality of which border on being criminal.

One of our group actually sat in on discussions lead by Lew Hay where Mr. Hay discussed this scheme as a strategy and the foundational reason why the company expanded in such a significant way the wind business. No other independent power developer or utility affiliate has enjoyed the benefit of this tax shield and proceeded to use it with such abuse. Normally, a deal is struck with a tax partner to add typically \$0.50/ \$1.00 thus splitting equally the tax benefits. Such a tax partner can absorb the tax benefits and usually at \$0.50/ \$1.00 these deals structures are very complicated and time consuming.

Thankfully, with the insistence of our new and current CEO F Mitchell Davidson, we discontinued this deliberate scheme and practice. The current management team is capable of doing these complex deal structures and the new leadership refuses to continue the practice started and perpetuated by the prior two CEOs of this business, Hay and Robo, that many still believed to be criminal.

The attributes that were stripped from the utility rate payers are well in excess of \$1 Billion, ironically most of what is being requested in the current FPL rate case. What the company did was take the benefits and flow them through then FPL Energy as revenue - the GAP treatment used to account for the excess proceeds from this elaborate scheme. Florida ratepayers could have done a deal with any developer other than FPL Energy and returned this cash to those properly deserving - the Florida ratepayers.

It makes us wonder what the management and executives of our sister company FPL were doing why this deliberate and criminal scheme was allowed to happen and persist. When this issue was raised by numerous employees over the years they were told to mind their own business and that "the right people at The Commission" knew about it. Unfortunately, the culture of cover up and intimidating employees into being quiet still persists here at the FPL Group of companies and retaliation is a real fear.

We believe these prior practices and the resulting misdeeds warrant increased and expanded scrutiny by the current Commission, the Governor and possibly the FDLE.

Signed: 3 concerned and fearful current employees NextEra Energy Resources

DOCUMENT NUMBER: 000006

JAN-4-2010

FPLC-COMMISSIONER CLERK

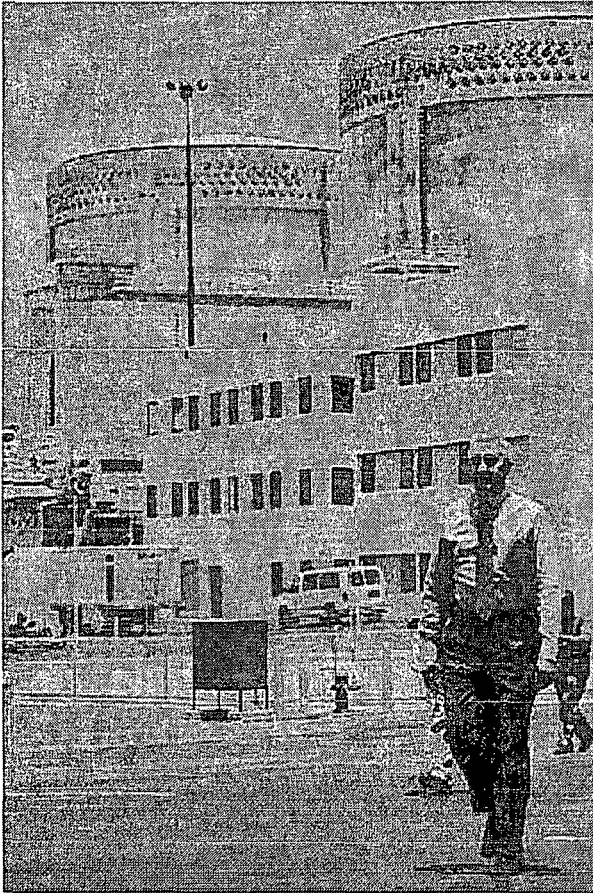
The Miami Herald

Posted on Sun, Jan. 03, 2010

Court records reveal trouble at Turkey Point

By JOHN DORSCHNER

dorschner@MiamiHerald.com



Chairman of the Nuclear Regulatory Commission, Dale Klein, finishes touring the Turkey Point nuclear plant Tuesday, May 13, 2008 in Turkey Point, Fla. Klein says he's been assured the plant is secure despite his agency's recent announcement it would fine the plant because guards there slept while on duty. (AP Photo/Wilfredo Lee)

When Coleen Ware walked into Turkey Point, she was shocked to see that the indicators showing control rod positions looked like something out of an early '70s sci-fi movie.

On special assignment from the Institute of Nuclear Power Operations to teach managers of the South Dade plant about safety, she was surprised by the aged indicators, which show the position of the rods in the reactor core -- a central measure about how the core is functioning.

"There are the old gauges . . . where . . . a needle that goes around and around," Ware testified, saying they were "not very reliable." When operators looked at the indicators daily, "they'd be stuck.

"So over the years, they developed the habit of pinging them to get them to move. . . . Well, that's not OK in a nuclear plant because you have to have reliable, you know, verification of where those rods are positioned. . . . That's a lesson from Three Mile Island," the worst nuclear disaster in American history.

In the hush-hush nuclear world, such insider details rarely, if ever, become public, but now a lawsuit has made public 2,000 pages of testimony that offer a fascinating window into the experiences, thoughts and frustrations of Turkey Point executives, employees and contract workers that reveal myriad problems.

Florida Power & Light, which operates the plant, says it's safe and all its actions are done according to federal regulation. "Turkey Point has been operating for more than 30 years and has a very good safety record," says FPL spokesman Michael Waldron. All the control-rod indicators have now been "updated or replaced and have extremely high reliability."

NRC spokesman Joey Ledford spokesman said the NRC was aware of control rod position indication problems and FPL has upgraded them in Reactor Unit 4 and plans to upgrade them in

Unit 3 next year, complying with all regulatory requirements.

Waldron emphasized that the transcripts from 17 people were made in 2008 by an investigator of the Nuclear Regulatory Commission as part of a dispute between FPL and David Hoffman, its former senior licensed operator who quit abruptly, writing a late-night resignation letter saying he couldn't follow executives' demands that he do something he believed was extremely dangerous.

FPL is now suing Hoffman, seeking the return of a \$50,000 bonus, and Hoffman is counter-suing. Hoffman also filed a complaint with the NRC, saying FPL had discriminated against him because he had raised concerns about safety.

After an investigation, the NRC reported it "did not substantiate" Hoffman's accusations. The federal regulatory authority also sided with the utility in several other issues that Hoffman had raised.

Some critics believe NRC strongly favors utilities. Vice President Joe Biden said in a 2007 interview, when he was a Delaware senator, that he had no confidence in the NRC. "It's like getting homed -- coming into the small town and playing a basketball championship with the local refs."

Hoffman started at Turkey Point in 1998, working his way up to become the senior operator, responsible for the plant's safe operation of the plant. In early 2008, he was earning \$139,776 a year in base pay and was set to receive a \$30,000 bonus in March.

Many of those who gave depositions spoke highly of him.

Tallman Whitler, an analyst brought in to improve the management system: "Hoffman caught my eye because he had a commanding respect of the people that worked for him."

Maria Lacal, another former operations manager: "Dave is a very capable individual, extremely sharp, very knowledgeable, very dedicated to his job. . . . he needed to mature a little bit here and there."

James Molden, a former operations manager, said Hoffman was "very, very knowledgeable." Top executives "were frustrated with Dave. . . . Dave would point out a lot of things that he was frustrated with. . . . There were never, you know, what I'll call happy moments. It was constantly 'This is what I need . . . and this is what I'm not getting.' "

Michael Pearce, an FPL executive still with the utility, had a more negative view: "David sometimes shoots from the hip, and his mouth will start before his brain engages."

Ware, the outside consultant, praised Hoffman for "coaching his shift managers to be more demanding with regard to equipment doing what it's designed to do, as opposed to various work-arounds, Rube Goldberg type methods for keeping the plant on line."

Ware was dismayed at FPL's stance. "Stuff wasn't getting fixed. . . . The message that came out of the leadership team was that there's nothing really wrong here. I mean it was just such a ridiculous message. . . . Everything comes down to dollars."

In his deposition, Bill Jefferson, then the top executive at Turkey Point, said: "I want to hear everything that's wrong with that power plant, and I want to fix everything that's wrong with the power plant."

Still many employees were concerned that FPL was putting profits ahead of safety.

THE BOTTOM LINE

Shift manager Randy Flynn: "Sometimes I think that the money was more important to the company than the people and resources. Yes I did."

Whitler said many employees were fed up with the system. There were "attrition rates of 30 percent a year. . . . There's a lot of brain drain walking out of the plant getting replaced by people with virtually no experience."

Molden, the former operations manager, was continually concerned about the control rod indicators, which kept malfunctioning. He called several FPL executives, saying, "We shouldn't be operating our plant at this standard."

Upset by what they viewed as a lack of company support for safe operations, Molden and Mike Navin quit as operations managers. "I left there because I didn't see the level of commitment to run the plant towards excellence, and Dave and I were of very like-minded," Navin recalled.

Waldron, the FPL spokesman, says, "there is absolutely no scenario where we would put profits before safety." The utility invested \$250 million to improve the plant from the beginning of 2008 through 2009, and Turkey Point is in compliance with all NRC requirements.

In late 2007, before this push began, FPL brought in Mike Kiley, a nuclear manager in New Hampshire, as general manager. In his deposition, Kiley said he had been ordered to deal with 1,700 items on the backlog list for repair. (Waldron says that the backlog is now down to 400 items, and only seven of them are considered essential for being fixed.)

At the time, Kiley said he quickly decided Hoffman "was very resistant to the need for the department to change."

William Hettel, a one-time operations manager: "They did not look upon Dave favorably. I think Dave knew . . . things that needed to be done. He just felt we couldn't progress as fast" as the top managers wanted.

"I think Dave's perspective was 'I need more operators and I can't push them any more because I can't afford to lose any more. . . . It was felt Dave did not have the right standards to drive the organization,'" said Hettel.

Tracy Davis, Hoffman's administrative assistant, recalled a time when Kiley criticized operators' work ethic. "Wait a minute, Mike," she told him. "These guys are tired. You try working six 12s, and you're on meds, and your one day off you have to stay up because you can't come back down."

'MEDS' OR 'MIDS'?

Bernd Wollschlaeger, a North Miami Beach physician and addiction specialist, says "the meds in question are probably amphetamines" and would be "very dangerous" if used by operators of equipment. FPL's Waldron suggests the transcript may have a typographic error and Davis said "mids." He says FPL has many programs in place to catch drug abusers.

Still, many employees complained they felt overworked. In one e-mail, shift supervisor Tim Jones erupted when asked to write a report in two days: "I cannot possibly complete these actions . . . I

have worked 16 straight hours and am scheduled to work 12 hours on one of my four days off as it is prior to annual requal next week. I still have evals to write for my shift, which I planned on completing on my own time off."

In 2008, the head of the NRC, Dale Klein, complained that Turkey Point was seriously understaffed, with exhausted operators often working 72 hours or more a week.

Waldron says the utility always abides by NRC work guidelines and that by hiring additional operators, they now average less than 45 hours a week. NRC spokesman Ledford says the plant has added 20 operators in the past 12 months, which "has substantially reduced the overtime hours." More operators are in training.

On Dec. 17, 2007, Kiley held his first big meeting with managers at a nearby country club. "I put on one slide that said: 'Are you fully committed to improving the department's performance? Yes or no.'"

Kiley went around the room, asking each manager. Each said yes, until he came to Paul Reimers, a veteran manager famous outside the plant for being a participant on the *Wife Swap* show. A show promo said the Reimers "run their family of five children with military like precision."

Kiley remembered Reimers saying, "No, I'm not committed to improving the department's performance."

Kiley said, "OK. Well, you can leave." Reimers left. He was not allowed to return to the plant for three days.

During a break, Hoffman was upset when shift managers told him they realized that from then on they wouldn't dare reveal concerns Kiley didn't want to hear. "That bothered me excessively."

Davis, the administrative assistant: "The first break, Dave immediately went to Mike and tried to explain . . . Paul's personality." He was the type who wouldn't automatically say yes. "Dave fought to get Paul back the next day."

Whitler said Hoffman was so upset that Whitler tried to calm him down. "I didn't want him fired because he was like the bastion of sanity."

THE BIG CHILL

Still, Hoffman complained to FPL human resources and, in a highly unusual event for a senior operator, he filed a confidential complaint with the NRC about the chilling effect the Reimers incident had on people who might want to talk about safety issues.

In his deposition, Kiley expressed regret. He said Reimers later told him he was already working far too much overtime. "In reflecting back on it now, you know, . . . I could have probably handled that situation a little better."

The NRC investigated and concluded Hoffman's fear "was not substantiated. Although a few individuals expressed some discomfort with respect to their interactions with certain senior plant managers, interview results indicated" they still felt they could reveal safety problems "without fear of retaliation."

Still, the NRC report noted that FPL "has acknowledged the need to improve communications to

foster enhanced employee trust in FPL senior management."

After the Reimers incident, executives further distanced themselves from Hoffman. "Dave was not involved in some really important key decisions that were being made . . . specifically the rod positioning indications, and I thought that was unusual that the senior license holder was not involved," said Ware, the outside consultant.

A crew was working on the control-rod gauges around the clock "and Dave Hoffman was excluded completely. . . . Mike Kiley did not consider Dave to be part of the team and that they were looking to replace him," said Ware.

Said Hoffman: "I had been viewed as an impediment to the progress that they were trying to make at the plant."

When Hoffman returned from Christmas vacation, he was told to spend at least two days a week in a training center, separated from the control room by two sets of razor wire and no-man's-land spaces. His supporters viewed this treatment as a period of exile. "He's outside . . . out of mind," said Whitler.

Meanwhile, Paul Infanger, a nuclear engineer, had been assigned to do another evaluation of the Employee Concerns Program, which was supposedly designed to allow workers to talk about plant problems, anonymously if they chose.

LACK OF TRUST

For years, the NRC had been concerned about whether Turkey Point employees felt free to come forward with safety concerns without suffering repercussions. Whitler, the FPL analyst, said several earlier employee surveys showed "they don't trust management. . . . They didn't think management respected employees. They didn't think they were fixing the plant."

Infanger said his team found that ECM "was not being thought of as an effective tool." Among the 200 workers who answered his survey, he found "there was a very, very strong feeling that management retaliated [against] people who raised concerns."

In March 2008, Vice President Jefferson "got openly irate" when he saw the survey, Infanger recalled. "He was upset with all the weaknesses that made management look bad."

A few days later, Infanger was fired. Court documents don't indicate why. Infanger didn't respond to a phone call. FPL's Waldron says only that "all issues" with Infanger's leaving the company "have been resolved."

In August, FPL replaced Jefferson with Kiley, who now is the top boss at Turkey Point.

The NRC reports it continues to closely monitor FPL's Employee Concerns Program. At a meeting two months ago with NRC officials, FPL reported employee attitudes are still a problem, partly because "certain management actions have negatively impacted employee trust and resulted in a perception that production often takes precedence over safety."

The October FPL report also said, "Employees perceive that management has created an urgency to implement change and react immediately to issues without considering resources and work environment impact." FPL said it was taking strong corrective actions through mid-summer 2010 to improve employees' attitudes.

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Received: from HQCLSTR02.nrc.gov ([148.184.44.80]) by OWMS01.nrc.gov
([148.184.100.43]) with mapi; Tue, 5 Jan 2010 09:43:27 -0500

Content-Type: application/ms-tnef; name="winmail.dat"

Content-Transfer-Encoding: binary

From: NRCExecSec Resource <NRCExecSec.Resource@nrc.gov>

To: "McKelvin, Sheila" <Sheila.McKelvin@nrc.gov>, "Mike, Linda"

<Linda.Mike@nrc.gov>, "Champ, Billie" <Billie.Champ@nrc.gov>

Date: Tue, 5 Jan 2010 09:43:26 -0500

Subject: FW: NRC IN BED WITH FPL AND NUCLEAR INDUSTRY

Thread-Topic: NRC IN BED WITH FPL AND NUCLEAR INDUSTRY

Thread-Index: AcqOFXBGB+SujRRxQw6Juw7o3TQ4qgAAAA8Q

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