

EDO Principal Correspondence Control

FROM: DUE: 12/13/10

EDO CONTROL: G20100688

DOC DT: 11/12/10

FINAL REPLY:

Thomas Saporito  
Jupiter, Florida

TO:

Borchardt

FOR SIGNATURE OF :

\*\* GRN \*\*

CRC NO:

Leeds, NRR

DESC:

ROUTING:

2.206 - Enforcement Action Against NEXtera Energy  
and Duane Arnold Nuclear Plant  
(EDATS: OEDO-2010-0925)

Borchardt  
Weber  
Virgilio  
Ash  
Mamish  
OGC/GC  
Satorius, RIII  
Mensah, NRR  
Scott, OGC  
Kotzalas, OEDO

DATE: 11/12/10

ASSIGNED TO:

CONTACT:

NRR

Leeds

SPECIAL INSTRUCTIONS OR REMARKS:

TEMPLATE: EDO-001

E-RIDS: EDO-01

# EDATS

Electronic Document and Action Tracking System

**EDATS Number:** OEDO-2010-0925

**Source:** OEDO

## General Information

**Assigned To:** NRR

**OEDO Due Date:** 12/13/2010 11:00 PM

**Other Assignees:**

**SECY Due Date:** NONE

**Subject:** 2.206 - Enforcement Action Against NEXtera Energy and Duane Arnold Nuclear Plant

**Description:**

**CC Routing:** RegionIII; OGC; Tanya.Mensah@nrc.gov

**ADAMS Accession Numbers - Incoming:** NONE

**Response/Package:** NONE

## Other Information

**Cross Reference Number:** G20100688

**Staff Initiated:** NO

**Related Task:**

**Recurring Item:** NO

**File Routing:** EDATS

**Agency Lesson Learned:** NO

**OEDO Monthly Report Item:** NO

## Process Information

**Action Type:** 2.206 Review

**Priority:** Medium

**Signature Level:** NRR

**Sensitivity:** None

**Urgency:** NO

**Approval Level:** No Approval Required

**OEDO Concurrence:** NO

**OCM Concurrence:** NO

**OCA Concurrence:** NO

**Special Instructions:**

## Document Information

**Originator Name:** Thomas Saporito

**Date of Incoming:** 11/12/2010

**Originating Organization:** Citizens

**Document Received by OEDO Date:** 11/12/2010

**Addressee:** R. W. Borchardt, EDO

**Date Response Requested by Originator:** 12/13/2010

**Incoming Task Received:** 2.206

**UNITED STATES NUCLEAR REGULATORY COMMISSION  
BEFORE THE HON. WILLIAM BORCHARDT**

**In the Matter of:**

**NEXTERA ENERGY,**

**Date: 12 NOV 2010**

**Duane Arnold Nuclear Plant,**

**Docket No.: 05000331**

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**PETITION UNDER 10 C.F.R. §2.206 SEEKING ENFORCEMENT ACTION  
AGAINST NEXTERA ENERGY AND DUANE ARNOLD NUCLEAR PLANT**

NOW COMES, Thomas Saporito, (Petitioner or Saporito) and submits a "*Petition Under 10 C.F.R. §2.206 Seeking Enforcement Action Against NEXTERa Energy and Duane Arnold Nuclear Plant*" (hereinafter, "Petition"). For the reasons stated below, the U.S. Nuclear Regulatory Commission (NRC) should grant the Petition as a matter of law:

**NRC HAS JURISDICTION AND AUTHORITY TO GRANT PETITION**

The NRC is the government agency charged by the United States Congress to protect public health and safety and the environment related to operation of commercial nuclear reactors in the United States of America (USA). Congress charged the U.S. Nuclear Regulatory Commission (NRC), with this grave responsibility in creation of the agency through passing the Energy Reorganization Act of 1974, as amended, 42 U.S.C.A. §5851 (ERA). In the instant action, NEXTERa Energy and Duane Arnold (hereinafter "licensee"), are collectively and singularly a "licensee" of the NRC and subject to NRC regulations and authority under 10 C.F.R. §50 and under other NRC regulations and authority in the operation of the Duane Arnold Nuclear Plant (DANP). Thus, through Congressional action in creation of the NRC; and the fact that the named-actionable parties identified above by Petitioner are collectively and singularly a licensee of the NRC, the agency has jurisdiction and authority to grant the Petition in the instant action.

**STANDARD OF REVIEW**

**A. Criteria for Reviewing Petitions Under 10 C.F.R. §2.206**

The staff will review a petition under the requirements of 10 C.F.R. §2.206 if the request meets all of the following criteria:

- The petition contains a request for enforcement-related action such as issuing an order modifying, suspending, or revoking a license, issuing a notice of violation, with or

without a proposed civil penalty, etc.

- The facts that constitute the basis for taking the particular action are specified. The petitioner must provide some element of support beyond the bare assertion. The supporting facts must be credible and sufficient to warrant further inquiry.
- There is no NRC proceeding available in which the petitioner is or could be a party and through which petitioner's concerns could be addressed. If there is a proceeding available, for example, if a petitioner raises an issue that he or she has raised or could raise in an ongoing licensing proceeding, the staff will inform the petitioner of the ongoing proceeding and will not treat the request under 10 C.F.R. §2.206.

**B. Criteria for Rejecting Petitions Under 10 C.F.R. §2.206**

- The incoming correspondence does not ask for an enforcement-related action or fails to provide sufficient facts to support the petition but simply alleges wrongdoing, violations of NRC regulations, or existence of safety concerns. The request cannot be simply a general statement of opposition to nuclear power or a general assertion without supporting facts (e.g., the quality assurance at the facility is inadequate). These assertions will be treated as routine correspondence or as allegations that will be referred for appropriate action in accordance with MD 8.8, "Management of Allegations".
- The petitioner raises issues that have already been the subject of NRC staff review and evaluation either on that facility, other similar facilities, or on a generic basis, for which a resolution has been achieved, the issues have been resolved, and the resolution is applicable to the facility in question. This would include requests to reconsider or reopen a previous enforcement action (including a decision not to initiate an enforcement action) or a director's decision. These requests will not be treated as a 2.206 petition unless they present significant new information.
- The request is to deny a license application or amendment. This type of request should initially be addressed in the context of the relevant licensing action, not under 10 C.F.R. 2.206.
- The request addresses deficiencies within existing NRC rules. This type of request should be addressed as a petition for rulemaking.

*See, Volume 8, Licensee Oversight Programs, Review Process for 10 C.F.R. Petitions, Handbook 8.11 Part III.*

**REQUEST FOR ENFORCEMENT-RELATED ACTION TO MODIFY,  
SUSPEND, A LICENSE AND ISSUE A CONFIRMATORY ORDER**

**A. Request for Enforcement-Related Action**

Petitioner respectfully requests that the NRC: (1) take enforcement action against the above-captioned licensee; (2) issue a confirmatory order requiring the licensee to bring the DANP to a "cold-shutdown" mode of operation; (3) issue a confirmatory order preventing the licensee from bringing the DANP to any mode of operation other than "cold shutdown" until the licensee completes further testing of its safety-related primary systems and its safety-related secondary systems including, but not limited to, all primary piping systems associated with the nuclear reactor (hot-leg and cold leg) loops; all primary piping systems associated with the steam generator system (including internal piping associated with each steam generator); the nuclear reactor vessel welds (including the belt-line weld); all nuclear reactor feed-water system piping which supports inventory to the nuclear reactor; and (4) issue a confirmatory order requiring the licensee to obtain an "independent" evaluation of all the systems identified immediately above by a "certified" independent contractor.

**B. Facts That Constitute the Basis for Taking the Requested Enforcement-Related Action Requested by Petitioner**

On or about November 6th, 2010, the licensee noticed the NRC in a 21-page report an "*indication identified in the N2A Recirculation Inlet Safe End to Safe End extension Dissimilar Metal Weld.*" The licensee's report describes a preliminary assessment which attributes the problem to "*stress corrosion cracking*".

# Cracked Weld Discovered During Duane Arnold Refueling Outage

By Dave Franzman, Reporter



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Story Created: Nov 10, 2010  
at 10:43 AM CST

PALO, Iowa - NextEra Energy has begun steps to repair a cracked weld joint in a nozzle found during a refueling outage at the Duane Arnold Energy Center.

The discovery was described in a 21-page letter to the Nuclear Regulatory Commission on Nov. 6. It describes an "indication identified in the N2A Recirculation Inlet Safe End to Safe End extension Dissimilar Metal Weld."

## C. **There Is No NRC Proceeding Available in Which the Petitioner is or Could be a Party and Through Which Petitioner's Concerns Could be Addressed**

Petitioner avers here that there is no NRC proceeding available in which the Petitioner is or could be a party and through which Petitioner's concerns could be addressed.

## CONCLUSION

FOR ALL THE ABOVE STATED REASONS, and because Petitioner has amply satisfied all the requirements under 10 C.F.R. §2.206 for consideration of [his] Petition by the NRC PRB, the NRC should grant Petitioner's requests made in the Petition as a matter of law.

Respectfully submitted,

Thomas Saporito, *pro se*

Petitioner  
Post Office Box 8413  
Jupiter, Florida 33468-8413  
Voice: (561) 972-8363  
Email: saporito3@gmail.com

**CERTIFICATE OF SERVICE**

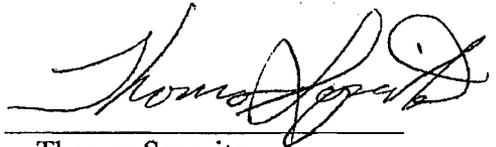
I HEREBY CERTIFY, that on this 12th day of November, 2010, a copy of foregoing document was provided to those identified below by means shown:

Hon. William Borchardt  
Executive Director for Operations  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555  
{Sent via U.S. Mail and electronic mail}

Hon. Gregory B. Jaczko, Chairman  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555  
{Sent via electronic mail}

James Heller  
Allegations Coordinator  
U.S. Nuclear Regulatory Commission  
Region III Headquarters  
{Sent via electronic mail}

By: \_\_\_\_\_

  
Thomas Saporito