

EDO Principal Correspondence Control

FROM: DUE: 07/14/11

EDO CONTROL: G20110449

DOC DT: 06/11/11

FINAL REPLY:

Thomas Saporito
Saprodani Associates

TO:

Vietti-Cook, SECY

FOR SIGNATURE OF :

** GRN **

CRC NO: 11-0345

Leeds, NRR

DESC:

ROUTING:

2.206 - Tennessee Valley Authority - Browns Ferry
Nuclear Plant and Tom Klgores
(EDATS: SECY-2011-0343)

Borchardt
Weber
Virgilio
Ash
Muessle
OGC/GC
McCree, RII
Burns, OGC
Mensah, NRR
Scott, OGC
Bowman, OEDO

DATE: 06/14/11

ASSIGNED TO:

CONTACT:

NRR

Leeds

SPECIAL INSTRUCTIONS OR REMARKS:

Template: SECY-017

E-RIDS: SECY-01

EDATS

Electronic Document and Action Tracking System



EDATS Number: SECY-2011-0343

Source: SECY

General Information

Assigned To: NRR

OEDO Due Date: 7/14/2011 11:00 PM

Other Assignees:

SECY Due Date: NONE

Subject: 2.206 - Tennessee Valley Authority - Browns Ferry Nuclear Plant and Tom Klгоре

Description:

CC Routing: RegionII; OGC; tanya.mensah@nrc.gov; catherine.scott@nrc.gov

ADAMS Accession Numbers - Incoming: NONE

Response/Package: NONE

Other Information

Cross Reference Number: G20110449, LTR-11-0345

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: 6/11/2011

Originating Organization: Saproani Associates

Document Received by SECY Date: 6/14/2011

Addressee: Annette Vietti-Cook, SECY

Date Response Requested by Originator: NONE

Incoming Task Received: E-mail

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Jun 13, 2011 18:26

PAPER NUMBER: LTR-11-0345

LOGGING DATE: 06/13/2011

ACTION OFFICE: EDO

AUTHOR: Thomas Saporito

AFFILIATION: FL

ADDRESSEE: NRCExecSec Resource

SUBJECT: Petition 2.206 - TVA Browns Ferry Nuclear Plant

ACTION: Appropriate

DISTRIBUTION: Chrm, Comrs, OGC

LETTER DATE: 06/11/2011

ACKNOWLEDGED No

SPECIAL HANDLING: 2.206 Petition

NOTES:

FILE LOCATION: ADAMS

DATE DUE:

DATE SIGNED:

EDO --G20110449

Mike, Linda

From: saporito3@gmail.com on behalf of Thomas Saporito [thomas@saprodani-associates.com]
Sent: Saturday, June 11, 2011 10:57 AM
To: NRCExecSec Resource
Cc: Jaczko, Gregory; Sykes, Marvin; DeMiranda, Oscar; Evans, Carolyn
Subject: Petition 2.206 - TVA Browns Ferry Nuclear Plant
Attachments: 2011.06.04 Browns Ferry.pdf

Dear Ms. Cook:

Please provide the attached 2.206 enforcement petition to the NRC Executive Director for Operations for processing under MD-8.11 accordingly.

Should you have any questions regarding this matter, please feel free to contact me at your convenience.

Kind regards,

Thomas Saporito, Senior Consulting Associate
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Phone: (561) 972-8363 Fax: (561) 247-6404
Saprodani-Associates - Advocate/GreenPeace USA

**UNITED STATES NUCLEAR REGULATORY COMMISSION
BEFORE THE EXECUTIVE DIRECTOR FOR OPERATIONS**

In the Matter of:

**SAPRODANI ASSOCIATES, and
THOMAS SAPORITO**

DATE: 04 JUNE 2011

Petitioner,

v.

**TENNESSEE VALLEY AUTHORITY -
BROWNS FERRY NUCLEAR PLANT
AND TOM KILGORE - CHIEF
EXECUTIVE OFFICER**

Licensee.

**PETITION UNDER 10 C.F.R. §2.206 SEEKING ENFORCEMENT
ACTION AGAINST TENNESSEE VALLEY AUTHORITY -
BROWNS FERRY NUCLEA PLANT AND
TOM KLGORE - CHIEF EXECUTIVE OFFICER**

NOW COMES, SaproDani Associates, by and through and with, Thomas Saporito, Senior Consulting Associate (hereinafter "Petitioner") and submits a "*Petition Under 10 C.F.R. §2.206 Seeking Enforcement Action Against Tennessee Valley Authority – Browns Ferry Nuclear Plant and Tom Kilgore - Chief Executive Officer*" (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 NRC with this grave responsibility in creation of the agency through passing the Energy Reorganization Act of 1974 (ERA). In the instant action, Tennessee Valley Authority – Browns Ferry Nuclear Plant and Tom Kilgore 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 operation of the Browns Ferry Nuclear Plant. Thus, through Congressional action in creation of the agency; 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.

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, OR REVOKE A LICENSE AND ISSUE A NOTICE OF
VIOLATION WITH A PROPOSED CIVIL PENALTY**

A. Request for Enforcement-Related Action

Petitioner respectfully requests that the NRC take escalated enforcement action against the above-captioned licensee(s) and suspend, or revoke the NRC license granted to the licensee for operation of the Tennessee Valley Authority – Browns Ferry Nuclear Plant; and that the NRC issue a notice of violation with a proposed civil penalty against the collectively named and each singularly named licensee captioned-above in this matter.

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

On February 9, 2011, the U.S. Nuclear Regulatory Commission (NRC) inspectors at the licensee's Browns Ferry Nuclear Plant (BFNP) found that the licensee failed to establish adequate design control and perform adequate maintenance on the Unit-1 low pressure coolant injection (LPCI) outboard injection valve, 1-FCV-74-66, which resulted in the valve being left in a significantly degraded condition – causing the Residual Heat Removal (RHR) Loop II being unable to fulfill its safety design function in protecting the nuclear reactor from a core melt-down. On May 9, 2011, the NRC subsequently issued a Final Significance Determination of a Red Finding, Notice of Violation to the Browns Ferry Nuclear Plant (EA-11-018).

On April 4, 2011, the NRC held a Regulatory Conference with the licensee to discuss the licensee's views on the Red finding violation. The licensee alleged that – the root-cause was determined to be the failure of 1-FCV-74-66 – caused by an original manufacturer defect (undersized threads). The licensee also alleged that – (1) because it was not reasonable for the licensee to have identified the defect prior to the valve failure, a performance deficiency did not exist; and (2) that the valve disc would have lifted and provided full flow when the system was required to perform its intended safety function; and (3) that the NRC should reduce its finding to a Green finding and not a Red finding. Finally, the licensee presented corrective action plans related to the valve failure and actions that were planned to address long-term fire strategies at the nuclear plant.

On May 9, 2011, the NRC issued a Final significance Determination of a Red Finding, Notice of Violation, and Assessment Follow-Up Letter (EA-11-018). The NRC thoroughly

considered all available information provided by the licensee during and after the Regulatory Conference and concluded that the finding was correctly characterized as Red, a finding of high safety significance that will require additional NRC inspection activities at the BFNP.

On or about June 9, 2011, the licensee filed an appeal with the NRC asking the agency to re-evaluate the Red finding once again – and blamed the problem with the subject valve on a manufacturer's defect. The licensee assumed that the valve would do its job. The NRC is reviewing the licensee's appeal to determine whether the agency should accept the appeal in these circumstances.

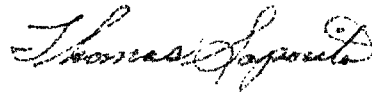
C. There Is No NRC Proceeding Available in Which the Petitioner is or Could be a Party and Through Which Petitioner's Concerns Could be Addressed

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 the Petition by the NRC Petition Review Board (PRB), the NRC should grant Petitioner's requests made in the instant Petition as a matter of law.

Respectfully submitted,



Thomas Saporito
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thomas@saprodani-associates.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 4th day of June, 2011, 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}

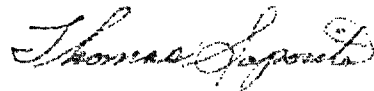
Melanie Checkle, Allegations Coordinator
U.S. Nuclear Regulatory Commission
Region II Headquarters
Atlanta, Georgia 30303
{Sent via electronic mail}

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

Oscar DeMiranda
Senior Allegations Coordinator
U.S. Nuclear Regulatory Commission
Region II Headquarters
Atlanta, Georgia 30303
{Sent via electronic mail}

Carolyn Evans, Dir. of Enforcement
U.S. Nuclear Regulatory Commission
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Local and National Media Sources



By: _____
Thomas Saporito
Senior Consulting Associate