

EDO Principal Correspondence Control

FROM: DUE: / /

EDO CONTROL: G20110628
DOC DT: 08/20/11
FINAL REPLY:

Thomas Saporito
Saprodani Associates

TO:

Chairman Jaczko

FOR SIGNATURE OF : ** GRN **

CRC NO:

DESC:

Follow-up to 2.206 - Limerick
(EDATS: OEDO-2011-0582)

ROUTING:

Borchardt
Weber
Virgilio
Ash
Mamish
OGC/GC
Dean, RI
Burns, OGC
Mensah, NRR
Banic, NRR
Scott, OGC
Bowman, OEDO

DATE: 08/24/11

ASSIGNED TO: CONTACT:
NRR Leeds

SPECIAL INSTRUCTIONS OR REMARKS:

For Appropriate Action.

Ref. G20110570.

Template: EDO-001

ERIDS: EDO-01



EDATS Number: OEDO-2011-0582

Source: OEDO

General Information

Assigned To: NRR

OEDO Due Date: NONE

Other Assignees:

SECY Due Date: NONE

Subject: Follow-up to 2.206 - Limerick

Description:

CC Routing: RegionI; OGC: Tanya.Mensah@nrc.gov; Merrilee.Banic@nrc.gov; Catherine.Scott@nrc.gov

ADAMS Accession Numbers - Incoming: NONE

Response/Package: NONE

Other Information

Cross Reference Number: G20110628

Staff Initiated: NO

Related Task:

Recurring Item: NO

File Routing: EDATS

Agency Lesson Learned: NO

OEDO Monthly Report Item: NO

Process Information

Action Type: Appropriate Action

Priority: Medium

Signature Level: No Signature Required

Sensitivity: None

Urgency: NO

Approval Level: No Approval Required

OEDO Concurrence: NO

OCM Concurrence: NO

OCA Concurrence: NO

Special Instructions: For Appropriate Action.

Ref. G20110570.

Document Information

Originator Name: Thomas Saporito

Date of Incoming: 8/20/2011

Originating Organization: Saproani Associates

Document Received by OEDO Date: 8/24/2011

Addressee: Chairman Jaczko

Date Response Requested by Originator: NONE

Incoming Task Received: Letter

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Aug 22, 2011 15:27

PAPER NUMBER: LTR-11-0499 **LOGGING DATE:** 08/22/2011

ACTION OFFICE: EDO
To: Leeds, NER
Ref. S20110628

AUTHOR: Thomas Saporito

AFFILIATION: FL

ADDRESSEE: Gregory Jaczko

SUBJECT: Limerick Generating Station 2.206

ACTION: Appropriate

DISTRIBUTION:

LETTER DATE: 08/20/2011

ACKNOWLEDGED No

SPECIAL HANDLING: 2.206 Petition

NOTES:

FILE LOCATION: ADAMS

DATE DUE: **DATE SIGNED:**

Saprodani Associates

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Jupiter, Florida 33468-8413

Telephone: (561) 972-8363
thomas@saprodani-associates.com

August 20th, 2011

Hon. Gregory B. Jaczko, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

***In re: NRC, Harold K. Chernoff, Letter Dated August 17, 2011 - 2.206 Petition - Limerick
Generating Station***

Dear Chairman Jaczko:

On this date, the undersigned received a letter dated August 17, 2011, authored by Harold K. Chernoff¹ (Chernoff), Chief, Plant Licensing Branch I-1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation for the U.S. Nuclear Regulatory Commission (NRC). The Chernoff letter advises that the NRC staff refused to accept the undersigned's August 1st, 2011, 2.206 Petition filed with the NRC seeking enforcement action against the Limerick Generating Station (LGS) for the sole reason that:

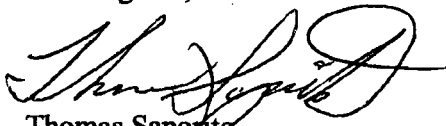
...The license renewal process contains an opportunity for hearing pursuant to 10 CFR 54.27, and hence provides you with a proceeding through which your concerns could be addressed. For this reason, your request does not meet the criteria for acceptance."

Id. at 1.

However, the undersigned's 2.206 petition was filed with the NRC prior to the hearing process identified by the NRC staff. Moreover, the NRC staff is NOT correct in stating that the undersigned's concerns can be addressed via a hearing request under 10 CFR 54.27 - simply because the undersigned does not have requisite standing to intervene in such a proceeding. Thus, the NRC is required under MD 8.11 to accept the undersigned's August 1st, 2011, petition filed under 10 C.F.R. 2.206 as a matter of law.

Please ORDER your NRC staff to accept the above-referenced petition accordingly.

Kind regards,



Thomas Sapodito
Senior Consultant

¹ A copy of the Chernoff letter is attached.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

August 17, 2011

Mr. Thomas Saporito
Post Office Box 8413
Jupiter, FL 33468-8413

Dear Mr. Saporito:

Your petition request dated August 1, 2011, and addressed to the Chairman, U.S. Nuclear Regulatory Commission (NRC or the Commission), was referred to the Office of Nuclear Reactor Regulation. Pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.206 of the Commission's regulations, you requested that the NRC take escalated enforcement action against Exelon Generation Company, LLC, the licensee for Limerick Generating Station (LGS), Units 1 and 2, and deny the licensee's application for renewal of Operating Licenses NPF-39 and NPF-85. As a basis for your request, you indicated the following:

Petitioner contends here that the LGS Units 1 and 2 employ nuclear reactor vessels which have been in operation for a period of years sufficient to cause the metal in the nuclear reactor vessels to become dangerously brittle and subject to cracking or shattering from continued operations and stresses during an extended 20-year period beyond the original safety design basis for which the NRC granted the primary operating licenses identified above. Petitioner contends here that the licensee has not and cannot provide the NRC with sufficient and reliable test data to show that the material condition of the nuclear reactor vessels in question has not degraded and become dangerously brittle; or that continued operations of the nuclear reactors for 20-years beyond the initial 40-year license period will not cause the reactor vessels to crack or shatter and result in a Loss-of-Coolant Accident (LOCA) and cause harm to the health and safety of the public and to the environment at large.

The NRC staff reviewed your request and in accordance with Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions," the staff has concluded that your request does not meet the criteria for review under 10 CFR 2.206. Per MD 8.11, the NRC will not review a request where there is a proceeding through which a petitioner is, or could be, a party, and through which the petitioner's concerns could be addressed. More specifically, MD 8.11 also states that requests to deny a license application or amendment should initially be addressed in the context of the relevant licensing action, not under 10 CFR 2.206. The license renewal process contains an opportunity for hearing pursuant to 10 CFR 54.27, and hence provides you with a proceeding through which your concerns could be addressed. For this reason, your request does not meet the criteria for acceptance.

T. Saporito

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Thank you for bringing this matter to the attention of the NRC. Please contact Peter Bamford, Project Manager for LGS, Units 1 and 2, if you have any questions regarding this action. Mr. Bamford may be reached at 301-415-2833.

Sincerely,

A handwritten signature in black ink, appearing to read "Harold K. Chernoff", with a stylized flourish at the end.

Harold K. Chernoff, Chief
Plant Licensing Branch I-2
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-352 and 50-353

cc: Distribution via Listserv

Jaegers, Cathy

From: saporito3@gmail.com on behalf of Thomas Saporito [thomas@saprodani-associates.com]
Sent: Saturday, August 20, 2011 3:25 PM
To: Jaczko, Gregory
Cc: Bamford, Peter; DeMiranda, Oscar; Evans, Carolyn; Checkle, Melanie; NRCExecSec Resource
Subject: (Appeal) Limerick Generating Station - 2.206 petition
Attachments: 2011.08.20 Letter to Jaczko.pdf

Dear Chairman Jaczko:

Please find the attached letter in response to NRC Chernoff's letter in connection with the Limerick Generating Station and an enforcement petition filed with the NRC under 10 C.F.R. 2.206

Kind regards,

Thomas Saporito, Senior Consultant
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We are an Advocate of GreenPeace USA