



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

May 6, 2014

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

Dear Mr. Saporito:

This letter responds to the petition you addressed to Mr. Bill Borchardt, Executive Director for Operations, U.S. Nuclear Regulatory Commission (NRC), pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 2.206, "Requests for Action under This Subpart," on December 5, 2009, as supplemented during the January 7, 2010, conference call and by your letter dated August 6, 2010. In your petition you requested that the NRC issue a confirmatory order to Duke Energy Florida, Inc., requiring them to:

1. Physically remove the outer 25 centimeters (10 inches) of concrete surrounding the Crystal River Nuclear Generating Plant, Unit 3 (CR-3) containment building from the top of the containment building to the bottom of the containment building and encompassing 360 degrees around the entire containment building.
2. Test samples of the concrete removed from the CR-3 containment building for composition and compare the test results to a sample of concrete from a similarly designed facility like the Florida Power and Light Company, Turkey Point Nuclear Plant.
3. Keep the CR-3 in cold shutdown mode until such time as the licensee can demonstrate full compliance with its NRC operating license for CR-3 within the safety margins delineated in the licensee's final safety analysis report (FSAR) and within the CR-3 site-specific technical specifications.
4. Provide the public with an opportunity to intervene at a public hearing before the NRC Atomic Safety and Licensing Board to challenge any certification made by the licensee to the NRC that it has reestablished full compliance with 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," and the safety margins delineated in its FSAR and technical specifications.

In a January 7, 2010, teleconference with the Office of Nuclear Reactor Regulation (NRR) Petition Review Board (PRB), you clarified the bases for your petition. During the teleconference, you requested that the NRC require the licensee to reform the containment building with additional concrete. The NRR PRB determined that this request supplemented request No. 1 of the petition. The transcript of this teleconference is available for inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, MD, and from the Agencywide Documents Access and Management System (ADAMS) Public Library component on the NRC's Web site, <http://www.nrc.gov> (the Public Electronic Reading Room) and in ADAMS under accession number ML100200966.

By letter dated March 4, 2010 (ADAMS Accession No. ML100471416), the NRC staff acknowledged receiving your December 5, 2009, petition (ADAMS Accession No. ML093430702) and your January 7, 2010, supplement and stated pursuant to 10 CFR 2.206

that request No. 3 from your petition (listed above) was accepted for review. Request Nos. 1, 2, and 4 from your petition did not meet the NRC Management Directive 8.11, "Review Process for 10 CFR 2.206 Petitions," criteria for further review in that sufficient facts have not been provided to support the request.

By letter dated August 6, 2010, you filed a separate petition (ADAMS Accession No. ML102220032) related, in part, to the containment delamination; however, it was not accepted for review under the 10 CFR 2.206 process. The PRB did, however, decide to consolidate the information in the August 6, 2010, petition request with the December 5, 2009, petition, as discussed in the NRC letter dated September 3, 2010 (ADAMS Accession No. ML102290577).

In your December 5, 2009, petition, you raised issues related to the containment delamination that occurred at CR-3 during steam generator replacement in fall 2009. In response to the delamination event, the NRC performed a special inspection at CR-3 (ADAMS Accession No. ML102861026) and determined that the delamination did not represent an increase in risk to the public.

Since the special inspection, CR-3 has permanently ceased power operations and the licensee has permanently removed the fuel from the reactor vessel (ADAMS Accession No. ML13056A005). As such, your request for the NRC to issue an order for CR-3 to remain in a shutdown mode until the licensee can demonstrate full compliance with the CR-3 operating license is moot because the licensee is no longer authorized to operate the reactor. Based on the above, the Director of the Office of Nuclear Reactor Regulation will not be instituting the proceeding you requested, either in whole or in part, as discussed in the enclosed Directors Decision.

The staff sent a copy of the proposed director's decision to you and to Duke Energy Florida, Inc., for comment on January 24, 2014. The staff did not receive any comments on the proposed director's decision.

A copy of the director's decision (DD-14-03) will be filed with the Secretary of the Commission for the Commission to review in accordance with 10 CFR 2.206(c). As provided for by this regulation, this decision will constitute the final action of the Commission 25 days after the date of the decision unless the Commission, on its own motion, institutes a review of the decision within that time. The documents cited in the enclosed decision are available in ADAMS for inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, MD, and from the ADAMS Public Library component on the NRC's Web site, <http://www.nrc.gov> (the Public Electronic Reading Room).

I have enclosed a copy of the notice of "Issuance of the Director's Decision under 10 CFR 2.206" that has been filed with the Office of the *Federal Register* for publication.

T. Saporito

- 3 -

Please feel free to contact Christopher Gratton, at 301-415-1055, to discuss any questions related to this petition.

Sincerely,



Eric J. Leeds, Director
Office of Nuclear Reactor Regulation

Docket No. 50-302

Enclosures:

1. Director's Decision 14-03
2. *Federal Register* Notice

cc: Mr. Terry D. Hobbs
Decommissioning Director
Crystal River Nuclear Plant (NA2C)
15760 W. Power Line Street
Crystal River, FL 34428-6708

Listserv

ENCLOSURE 1

DIRECTOR'S DECISION

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR REACTOR REGULATION

Eric J. Leeds, Director

In the Matter of)	Docket No. 50-302
)	
DUKE ENERGY FLORIDA, INC.)	License No. DPR-72
)	
Crystal River Unit 3 Nuclear Generating Plant)	

DIRECTOR'S DECISION UNDER 10 CFR 2.206

I. Introduction

By letter dated December 5, 2009, as supplemented on January 7, 2010, Mr. Thomas Saporito (the Petitioner) filed a petition under Title 10 of the *Code of Federal Regulations* (10 CFR) 2.206, "Requests for Action under This Subpart," related to damage to the Crystal River Nuclear Generating Plant, Unit 3 (CR-3), containment structure (Agencywide Documents Access and Management System (ADAMS) Accession No. ML093430702). The Petitioner also filed a separate petition regarding the containment structure under 10 CFR 2.206 on August 6, 2010 (ADAMS Accession No. ML102220032). The U.S. Nuclear Regulatory Commission (NRC) has consolidated the relevant portions of the August 6, 2010, petition with the December 5, 2009, petition. The Petitioner requested that the NRC take enforcement action.

Action Requested for December 5, 2009, Petition

In the original petition, the Petitioner requested that the NRC take enforcement action against Duke Energy Florida, Inc. The Petitioner requested that the NRC issue a confirmatory order to Duke Energy Florida, Inc., the licensee (formerly Florida Power Corp., Inc., a subsidiary of Progress Energy), requiring that the licensee perform the following actions:

1. Physically remove the outer 25 centimeters (10 inches) of concrete surrounding the CR-3 containment building from the top of the containment building to the bottom of the containment building and encompassing 360 degrees around the entire containment building.
2. Test samples of the concrete removed from the CR-3 containment building for composition and compare the test results to a sample of concrete from a similarly designed facility like the Florida Power and Light Company, Turkey Point Nuclear Plant.
3. Keep the CR-3 in cold shutdown mode until such time as the licensee can demonstrate full compliance with its NRC operating license for CR-3 within the safety margins delineated in the licensee's final safety analysis report (FSAR) and within the CR-3 site-specific technical specifications.
4. Provide the public with an opportunity to intervene at a public hearing before the NRC Atomic Safety and Licensing Board to challenge any certification made by the licensee to the NRC that it has reestablished full compliance with 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," and the safety margins delineated in its FSAR and technical specifications.

By a teleconference on January 7, 2010 (ADAMS Accession No. ML100200966), the Petitioner supplemented the December 5, 2009, petition by requesting that the licensee reform the containment building with additional concrete. The NRC determined that this additional information supplemented the first requested action of the December 5, 2009, petition.

The NRC's acknowledgement letter to the Petitioner for the December 5, 2009, petition, dated March 4, 2010 (ADAMS Accession No. ML100471416), addressed the original petition dated December 5, 2009, as supplemented on January 7, 2010. In this letter, the NRC accepted the Petitioner's third requested action because it met the criteria established in Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions," for review under the 10 CFR 2.206 process. Items 1, 2, and 4 did not meet the criteria established in MD 8.11 for review under the 10 CFR 2.206 process, as described in the March 4, 2010, letter.

By letter dated August 6, 2010, the Petitioner filed a separate request related, in part, to the containment delamination; however, it was not accepted for review under the 10 CFR 2.206 process. The decision to not accept the request as a petition was documented in a letter dated September 3, 2010 (ADAMS Accession No. ML102290577). In the August 6, 2010, request, the Petitioner stated that at the end of a June 30, 2010, public meeting, he verbally supplemented the December 5, 2009, petition by asserting that:

1. The licensee discovered new cracks when concrete was removed from the external walls of the containment building near the access cut made for replacement of steam generators.
2. The licensee failed to identify these cracks earlier upon the initial discovery of the delamination event.

3. The licensee cannot realistically provide any degree of assurance to the NRC that additional cracks within the containment building structure do not exist because, as with the newly discovered cracks, the licensee has no means to inspect the existing containment building structure to detect the existence of further cracks in the concrete.
4. The licensee has not sufficiently addressed the delamination event to effectively make repairs that will return CR-3 to the safety margins described in the licensee's FSAR and technical specifications.

While the request was not accepted, the information contained in the August 6, 2010, petition request was consolidated with the December 5, 2009, petition, as discussed in the letter dated September 3, 2010.

The NRC sent a copy of the proposed director's decision to the Petitioner and to Duke Energy Florida, Inc., for comment on January 24, 2014. The staff did not receive any comments on the proposed director's decision.

II. Discussion

Under 10 CFR 2.206(b), the director of the NRC office with responsibility for the subject matter shall either institute the requested proceeding or shall advise the person who made the request in writing that no proceeding will be instituted in whole or in part, with respect to the request, and the reason for the decision. Accordingly, the decision of the Director of the Office of Nuclear Reactor Regulation is provided below.

As stated previously, the NRC accepted for review the December 5, 2009, petition request that the NRC issue a confirmatory order requiring CR-3 to remain in cold shutdown mode until the licensee demonstrates full compliance with the safety margins delineated in the

license's FSAR and technical specification requirements. Since September 26, 2009, CR-3 has been shutdown while the licensee performed repairs related to the containment delamination. The licensee has not attempted to restart the reactor.

On February 5, 2013, the licensee publicly announced that it had decided to retire the CR-3 plant. On February 20, 2013 (ADAMS Accession No. ML13056A005), the licensee provided the certifications required by 10 CFR 50.82(a)(1)(i) and (ii) to the NRC staff that CR-3 had permanently ceased power operations and that all fuel had been permanently removed from the reactor vessel. In accordance with 10 CFR 50.82(a)(2), upon docketing of these two certifications, the licensee's 10 CFR Part 50 license no longer authorized operation of the CR-3 reactor or emplacement or retention of fuel into the reactor vessel. Accordingly, the licensee is prohibited by regulation from restarting CR-3 or loading fuel into the reactor vessel. Because the licensee is no longer authorized to operate the reactor, CR-3 may not enter a mode of operation that requires the containment to be in an operable condition. As such, the Petitioner's request for CR-3 to remain in cold shutdown mode until satisfying FSAR and technical specification limits is moot.

Although the NRC staff will not take action on the Petition's request, the following additional information is provided concerning other actions the NRC has taken related to the containment delamination issue. In fall 2010, the NRC conducted a special inspection of the Crystal River containment building to better understand the containment delamination issue, its impact to public safety, and to assess the licensee's actions to address it. The NRC reviewed the licensee's root-cause evaluation, design analysis, and planned corrective actions, along with the licensee's programs for containment inspection, maintenance, and testing. The results of the special inspection were documented in a special inspection report dated October 12, 2010

(ADAMS Accession No. ML102861026). The NRC found that the licensee's root-cause evaluation was thorough and supported its conclusions that the delamination occurred during initial containment detensioning. Detensioning occurred after the plant was shut down, when containment operability was not required. The NRC determined that the delamination did not represent an increase in risk to the public and it discovered no violations of NRC requirements.

III. Conclusion

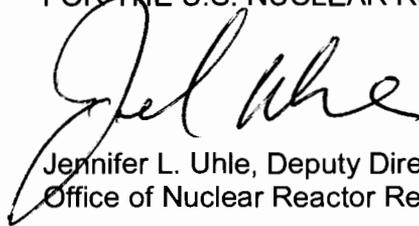
The Petitioner raised issues related to the containment delamination that occurred at CR-3 during steam generator replacement in fall 2009. The NRC performed a special inspection at CR-3 and found that the licensee's root-cause evaluation was thorough and supported its conclusions that the delamination occurred during initial containment detensioning. Detensioning occurred after the plant was shut down, when containment operability was not required. The NRC determined that the delamination did not represent an increase in risk to the public.

Since the special inspection, CR-3 has permanently ceased power operations and the licensee has permanently removed the fuel from the reactor vessel. As such, the Petitioner's request for the NRC to issue an order for CR-3 to remain in a shutdown mode is moot because the licensee decided to retire the plant. Based on the above, the Director of the Office of Nuclear Reactor Regulation will not be instituting the proceeding requested by the Petitioner, either in whole or in part.

As provided in 10 CFR 2.206(c), a copy of this director's decision will be filed with the Secretary of the Commission for the Commission to review. As provided for by this regulation, the decision will constitute the final action of the Commission 25 days after the date of the decision unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland, this 6th day of May 2014.

FOR THE U.S. NUCLEAR REGULATORY COMMISSION

A handwritten signature in black ink, appearing to read "J. Uhle", is written over the typed name and title.

Jennifer L. Uhle, Deputy Director
Office of Nuclear Reactor Regulation

ENCLOSURE 2

FEDERAL REGISTER NOTICE

NUCLEAR REGULATORY COMMISSION
[Docket No. 50-302; NRC-2014-XXXX]
License No. DPR-72
Duke Energy Florida, Inc.
Crystal River Nuclear Generating Plant, Unit 3
Director's Decision

AGENCY: Nuclear Regulatory Commission.

ACTION: Director's decision; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is giving notice that the Director of the Office of Nuclear Reactor Regulation (NRR) has issued a director's decision with regard to a petition dated December 9, 2009, as supplemented on January 7 and August 6, 2010, filed by Thomas Saporitio (the petitioner).

ADDRESSES: Please refer to Docket ID **NRC-2014-XXXX** when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2014-XXXX**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may obtain publicly available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Christopher Gratton, Office of Nuclear Reactor Regulation, 301-415-1055, e-mail: Christopher.Gratton@nrc.gov; U.S. Nuclear Regulatory Commission, Washington DC 20555-0001.

SUPPLEMENTARY INFORMATION:

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a director's decision with regard to a petition dated December 5, 2009, filed by Thomas Saporito (ADAMS Accession No. ML093430702). The petition was supplemented on January 7, 2010 (ADAMS Accession No. ML100200966) and consolidated with an additional August 6, 2010, petition (ADAMS Accession No. ML102220032). The petition concerns the operation of the Crystal River Nuclear Generating Plant, Unit 3 (CR-3).

In the December 5, 2009, petition, the petitioner raised concerns about the delamination (i.e., the separation of the different layers) of the CR-3 containment that occurred during the fall 2009 refueling outage. The petitioner considers this condition to be potentially unsafe and to be in violation of Federal regulations. In the petition, a number of references to the condition of the CR-3 containment were cited that the petitioner believes prohibit operation of the facility.

The petition requested that CR-3 perform the following actions, as summarized below:

1. Physically remove the outer 25 centimeters (10 inches) of concrete surrounding the CR-3 containment building.
2. Test samples of the concrete removed from the CR-3 containment building for composition and compare the test results to a sample of concrete from a similarly designed facility.
3. Keep the CR-3 in cold shutdown mode until such time as the licensee can demonstrate full compliance with its NRC operating license for CR-3 within the safety margins delineated in the licensee's final safety analysis report (FSAR) and within the CR-3 site-specific technical specifications.
4. Provide the public with an opportunity to intervene at a public hearing before the NRC Atomic Safety and Licensing Board to challenge any certification made by the licensee to the NRC that it has reestablished full regulatory compliance.

The petition of December 5, 2009, provided the following basis for CR-3 remaining in cold shutdown, as summarized below:

1. The licensee has not determined the root cause of the separation.
2. No method of non-destructive or destructive testing is sufficient to satisfy the FSAR requirements.

3. The removal of the top 10 inches of concrete of the entire containment outer wall would allow for proper visual inspection.
4. The removal of the top 10 inches of concrete of the entire containment outer wall would ensure the best adhesion of the new concrete pour to the existing inner wall.
5. The licensee's FSAR requires that the CR-3 containment building be comprised of a monolithic concrete perimeter wall. The only way the licensee can fully achieve compliance with its FSAR is to remove 10 inches of concrete from the entire outer wall for proper visual inspect and repair activities.

On January 7, 2010, the petitioner participated in a teleconference with the staff's petition review board. The meeting gave the petitioner an opportunity to provide additional information and to clarify issues raised in the petition. The information provided during this teleconference was considered a supplement to the December 9, 2009, petition.

On August 6, 2010, the petitioner sent in an additional petition related to the original December 5, 2009, petition; however, it was not accepted for review under Title 10 of *Code of Federal Regulations* (10 CFR), Section 2.206 process. By letter dated September 3, 2010 (ADAMS Accession No. ML102290577), the NRC informed the petitioner that the August 6, 2010, petition would be considered a supplement to the December 5, 2009, petition.

The NRC sent a copy of the proposed director's decision to the petitioner and to Duke Energy Florida, Inc., for comment on January 24, 2014. The staff did not receive any comments on the proposed director's decision.

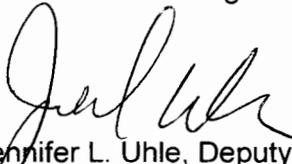
The Director of NRR has determined that the request, to require CR-3 to remain in cold shutdown mode, is moot and no action will be taken. The reasons for this decision are explained in the director's decision 14-03, pursuant to 10 CFR 2.206, the complete text of which is available in ADAMS under Accession No. ML14097A185.

The NRC will take no action on the request to require CR-3 to remain in cold shutdown because on February 20, 2013 (ADAMS Accession No. ML13056A005), the licensee provided the certification required by 10 CFR 50.82(a)(1)(i) and (ii) to the NRC staff that CR-3 had permanently ceased power operations and that all fuel had been permanently removed from the reactor vessel. Upon docketing of these two certifications, the licensee's 10 CFR Part 50 license no longer authorized operation of the CR-3 reactor or emplacement or retention of fuel into the reactor vessel. Accordingly, the licensee is prohibited by regulation from restarting CR-3 or loading fuel into the reactor vessel. Because the licensee is no longer authorized to operate the reactor, CR-3 may not enter a mode of operation that requires the containment to be in an operable condition.

A copy of the director's decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206 of the Commission's regulations. As provided for by this regulation, the director's decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the director's decision in that time.

Dated at Rockville, Maryland, this 6th day of May 2014.

For the Nuclear Regulatory Commission.


Jennifer L. Uhle, Deputy Director,
Office of Nuclear Reactor Regulation.

T. Saporito

- 3 -

Please feel free to contact Christopher Gratton, at (301) 415-1055, to discuss any questions related to this petition.

Sincerely,

/RA by JUhle for/

Eric J. Leeds, Director
Office of Nuclear Reactor Regulation

Docket No. 50-302

Enclosures:

1. Director's Decision 14-03
2. Federal Register Notice

cc: Mr. Terry D. Hobbs
 Decommissioning Director
 Crystal River Nuclear Plant (NA2C)
 15760 W. Power Line Street
 Crystal River, FL 34428-6708

Listserv

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 RidsNrrLABClayton Resource MBanic, NRR
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ADAMS Accession Nos.: Package: ML14097A194; Incoming ML093430702, ML1022220032
 Petition Ltr: ML14097A181; Final DD: ML14097A185;
 Notice of Issuance: ML14097A220

*via email

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DATE	4/18/14	5/5/14	5/5/14	5/1/14	5/6/14

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