



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

September 12, 2016

Mr. Thomas Saporito
Saprodani Associates
401 Old Dixie Hwy, Unit 3525
Tequesta, FL 33469

SUBJECT: PETITION UNDER 10 CFR 2.206 SEEKING ENFORCEMENT ACTION
AGAINST ALL NRC LICENSEES

Dear Mr. Saporito:

Your petition dated March 6, 2016, as supplemented on May 19, 2016, and July 18, 2016 (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML16067A340, ML16152A664 and ML16202A300 respectively), has been reviewed by the U.S. Nuclear Regulatory Commission (NRC) Office of Nuclear Reactor Regulation (NRR) pursuant to Title 10 of the *Code of Federal Regulations* Section 2.206 (10 CFR 2.206) of the Commission's regulations.

In your petition, you requested that the NRC take escalated enforcement action against Florida Power & Light Company, St. Lucie Nuclear Power Plant - Units 1 and 2, Turkey Point Nuclear Power Plant - Units 3 and 4, and all NRC licensees (with similarly designed commercial nuclear power stations) by issuing a confirmatory order requiring the licensee(s) to place their units in a "cold-shutdown" mode of operation until such time as these licensees:

- Complete an "independent" assessment to fully understand and correct the potential and/or realized security threat posed by outside organizations and/or individuals related to the operation of "intake cooling water structures, piping, and facilities" - providing an unauthorized means of ingress to the protected area of the nuclear facility - to attack the licensees' nuclear facility.
- Complete a comprehensive evaluation of their nuclear security program as it relates to any potential and/or realized security threat posed by outside organizations and/or individuals related to the operation of "intake cooling water structures, piping, and facilities" - providing an unauthorized means of ingress to the protected area of the nuclear facility - to attack the licensees' nuclear facility.
- Identify and implement measures to correct any deficiencies in its security plan - related to any potential and/or realized security threat posed by outside organizations and/or individuals related to the operation of "intake cooling water structures, piping, and facilities" - providing an unauthorized means of ingress to the protected area of the nuclear facility - to attack the licensees' nuclear facility.

- Complete an updated and approved physical security plan to the NRC which documents actions and measures in writing to be taken against any potential and/or realized security threat posed by outside organizations and/or individuals related to the operation of “intake cooling water structures, piping, and facilities” - providing an unauthorized means of ingress to the protected area of the nuclear facility - to attack the licensees’ nuclear facility.

In the section of your petition titled, “Facts That Constitute the Basis for Taking the Requested Enforcement Related Action Requested by Petitioner,” you provided a news article describing a July 12, 2015, incident where a diver was drawn into the St. Lucie cooling water intake.

On March 30, 2016, Mr. Perry Buckberg, petition manager, contacted you to offer you an opportunity to address the Petition Review Board (PRB) prior to the PRB making its initial recommendation to accept or reject the petition for review in accordance with Management Directive 8.11 (MD 8.11), “Review Process for 10 CFR 2.206 Petitions.” You accepted the opportunity, and on May 19, 2016, you addressed the PRB during a recorded teleconference. The meeting transcript from this teleconference is available in ADAMS at Accession No. ML16152A664. During the conference call, you clarified that the discussion will be primarily centered around licensed operations at the St. Lucie Nuclear Power Plant but that the petition, as clearly entitled, will encompass all NRC licensees who have similarly designed nuclear power plants. The May 19, 2016, teleconference was attended by NRC security staff.

On May 31, 2016, the PRB met to discuss your petition, as supplemented, as well as the May 19, 2016, conference call.

On June 29, 2016, Mr. Buckberg informed you of the following initial PRB recommendation:

The PRB ... has concluded that your petition should be rejected because it meets the following rejection criteria in NRC Management Directive MD 8.11:

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.

To support this recommendation, Mr. Buckberg also included the following:

Specific to plant security – nuclear plant operating licenses and existing federal regulations require that physical security threats be assessed and addressed by all NRC licensees. Protection against a waterborne (boat) attack or an attack with hand carried equipment (diver), falls specifically under 10 CFR 73.1(a)(1)(E)(iv) and 10 CFR 73.1(a)(1)(D) respectively. The petition, as supported, included discussion of waterborne terrorist attacks in general and the two St. Lucie diver incidents. NRC security staff advised that these scenarios are all well within the current scope of consideration for any plant’s physical security, which is under constant review by well qualified security specialists. In addition, nuclear power plants have several security layers of increasing surveillance and defense protecting those facilities.

On June 29, 2016, the petition manager also offered you a second opportunity to address the PRB to provide additional, relevant information in support of your petition request. On June 30, 2016, you accepted this second opportunity to address the PRB and a recorded teleconference was held July 18, 2016.

During the July 18, 2016, teleconference, you discussed recent terror attacks and supplemented your petition by stating that the NRC should require that nuclear plant protected areas be extended to include, "intake pipes under the ocean," and require that the protected areas be extended, "to include the area 1 mile around the entire facility." The July 18, 2016, teleconference was attended by NRC security staff. The meeting transcript from this teleconference is available in ADAMS at Accession No. ML16202A300.

The PRB met to discuss the July 18, 2016, teleconference and determined that nothing you provided in the teleconference supported altering its initial recommendation that your petition meets rejection criteria (b) of MD 8.11.

The PRB has determined that the cooling water intake security petition, as supplemented, meets this rejection criteria because the NRC requires that NRC-licensed nuclear power plants maintain full compliance with physical security plan requirements in the plant operating licenses, and full compliance with NRC regulations in 10 CFR 73.1 and 10 CFR 73.55. Specifically, NRC staff continually reviews emerging threats to NRC-licensed facilities and makes prompt recommendations to the Commission specific to the capabilities of the design-basis threat. Specific emerging methods are evaluated for their destructive capability, the consequences of the method, and the interest demonstrated by domestic and international terrorist groups to use the method against NRC-licensed facilities. As part of its evaluation, NRC staff also considers the ability of a terrorist group to plan, organize, and successfully execute an attack against an NRC-licensed facility.

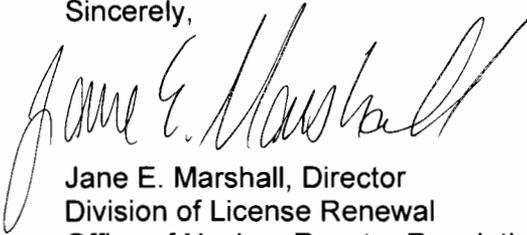
In conclusion, the PRB's final determination is that the petition meets the criteria for rejection in accordance with MD 8.11 because the petitioner raises issues that have already been the subject of NRC staff review and evaluation either on that facility, other similar facilities, or on a generic basis, for which a resolution has been achieved, the issues have been resolved, and the resolution is applicable to the facility in question. Specifically, the issue of the cooling water intake security is addressed by licensees in the NRC-approved Security Plans and is subject to the NRC Baseline Inspection Program as the staff routinely conducts security inspections and the licensee institutes corrective actions if any identified deficiencies are found in its program.

T. Saporito

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Thank you for your interest in bringing security issues to the attention of the NRC.

Sincerely,

A handwritten signature in black ink, appearing to read "Jane E. Marshall". The signature is fluid and cursive, with a large initial "J" and "M".

Jane E. Marshall, Director
Division of License Renewal
Office of Nuclear Reactor Regulation

cc: Distribution via Listserv

T. Saporito

- 4 -

Thank you for your interest in bringing security issues to the attention of the NRC.

Sincerely,

/RA/

Jane E. Marshall, Deputy Director
Division of License Renewal
Office of Nuclear Reactor Regulation

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***by e-mail**

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