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 RECIPIENT AFFILIATION
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 MURLEY, T.E. Ofc of the Executive Director for Operations

SUBJECT: Discusses 900522 petition re PVNGS deficiencies in emergency lighting.

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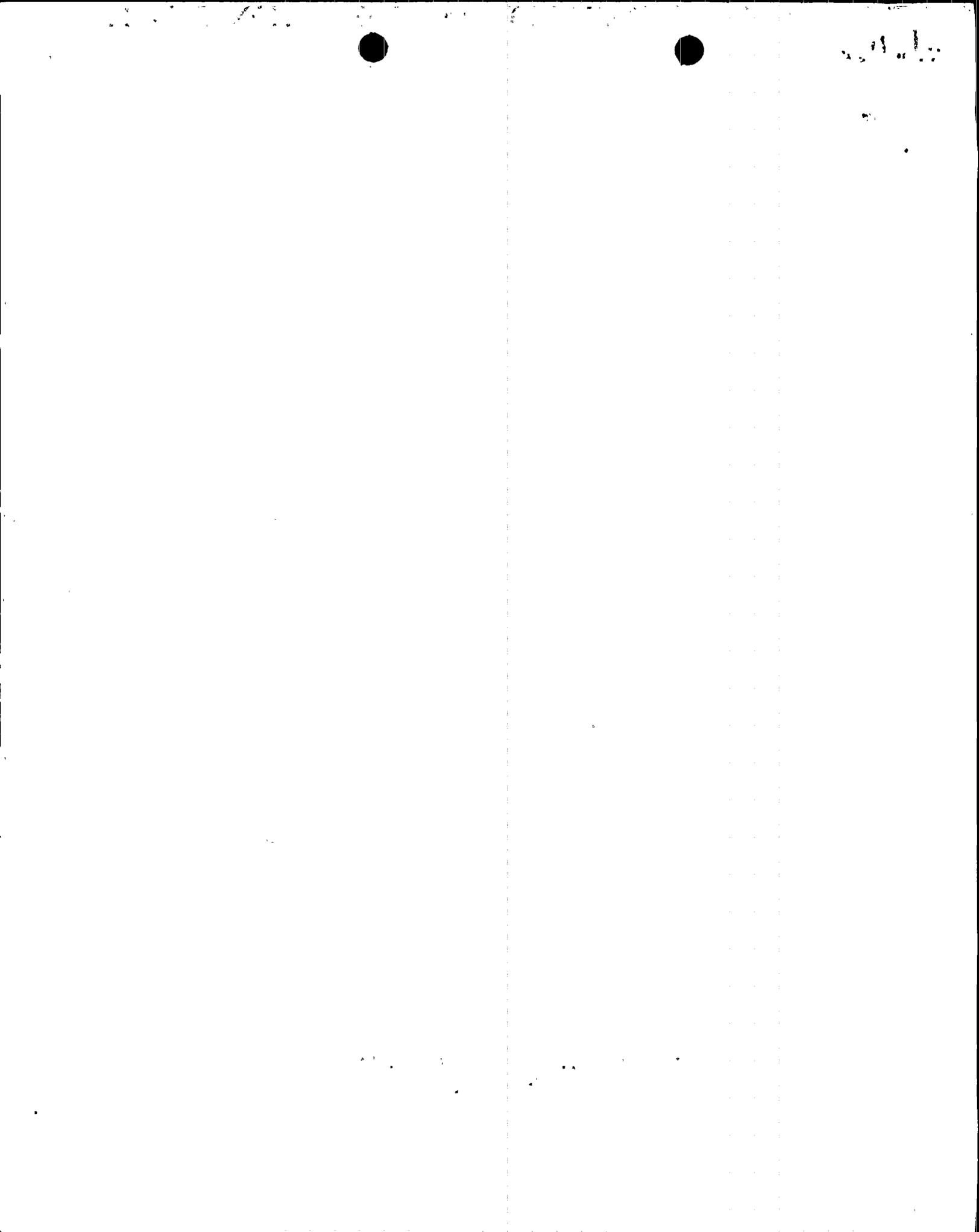
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WILLIAM F. CONWAY
EXECUTIVE VICE PRESIDENT
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161-03525-WFC-JNB

October 8, 1990

Thomas E. Murley, Director
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Dr. Murley:

Subject: Palo Verde Nuclear Generating Station (PVNGS)
10 CFR 2.206 Petition
File: 90-005-419.8

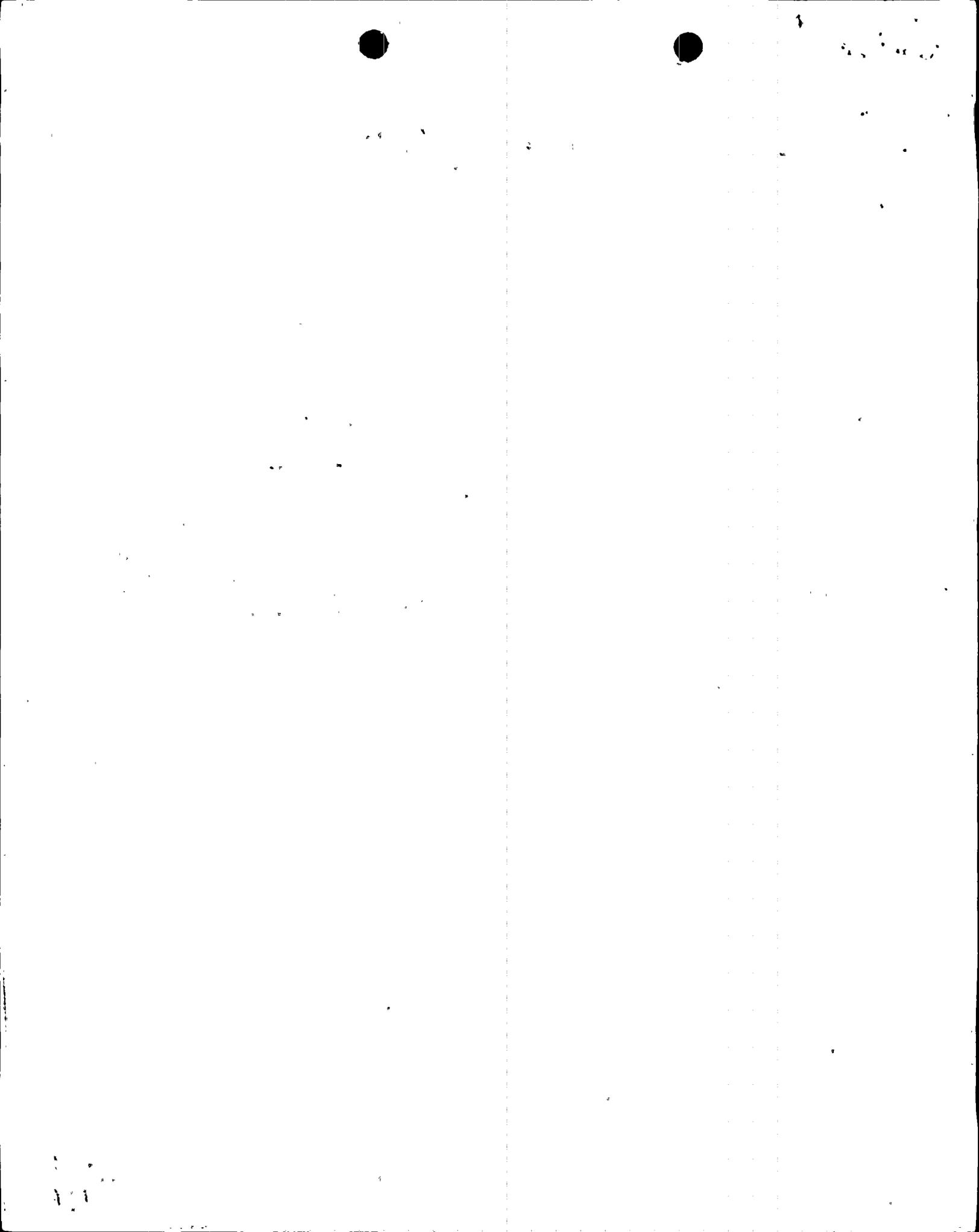
On May 22, 1990 a petition was filed under 10 CFR § 2.206 on behalf of Mrs. Linda Mitchell, an employee of Arizona Public Service Company (APS). The petition alleges deficiencies in emergency lighting at Palo Verde Nuclear Generating Station (PVNGS). More disturbing, the petition alleges that senior APS officials engaged in a number of inappropriate actions calculated to improperly influence NRC Region V management resulting in Inspection Report 90-02 being "watered down" to cover up additional concerns raised by Petitioner and verified by an NRC inspector.

APS has conducted extensive reviews relative to both the adequacy of emergency lighting and the allegations of wrongdoing in the petition, subject to certain potentially significant constraints. Specifically, the Petitioner has refused to talk with APS representatives to explain the basis for the assertions in the petition. Moreover, the NRC Inspector General's office has requested that APS not contact NRC personnel to ascertain their knowledge with respect to any improper behavior associated with Inspection Report 90-02. Finally, APS has only recently received a reply to its August 10, 1990, request for any further safety-related allegations the NRC may have concerning Palo Verde and no additional information regarding specific allegations was supplied. Notwithstanding these constraints, APS herein submits the following for consideration by the NRC in the disposition of the petition. As more fully set forth in the enclosure to this letter, APS has concluded:

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Dr. Thomas E. Murley
Office of Nuclear Reactor Regulation
Page 2

- (1) there is no reasonable basis for any of the allegations of wrongdoing in the petition and specifically that no officer or employee of APS has attempted to improperly influence or discredit either an NRC inspector or NRC regional management in an effort to "water down" any NRC Inspection Report relating to emergency lighting at PVNGS;
- (2) although the NRC and APS have had technical differences of opinion, at all times APS has been open, candid, and attempted to provide complete and accurate information on emergency lighting issues;
- (3) emergency lighting at PVNGS is adequate for the reasons more fully explained in APS correspondence dated June 19, 23 and 24, July 13 and 20, and August 1, 1990; and
- (4) the sanctions requested in the petition are completely unjustified and inappropriate.

After you have had an opportunity to review the enclosure, if you have any questions or other concerns associated with the petition please contact me. We would also very much like to meet with you to address any such matters.

Sincerely,



WFC/JNB/jle

Enclosure

cc: Document Control Desk

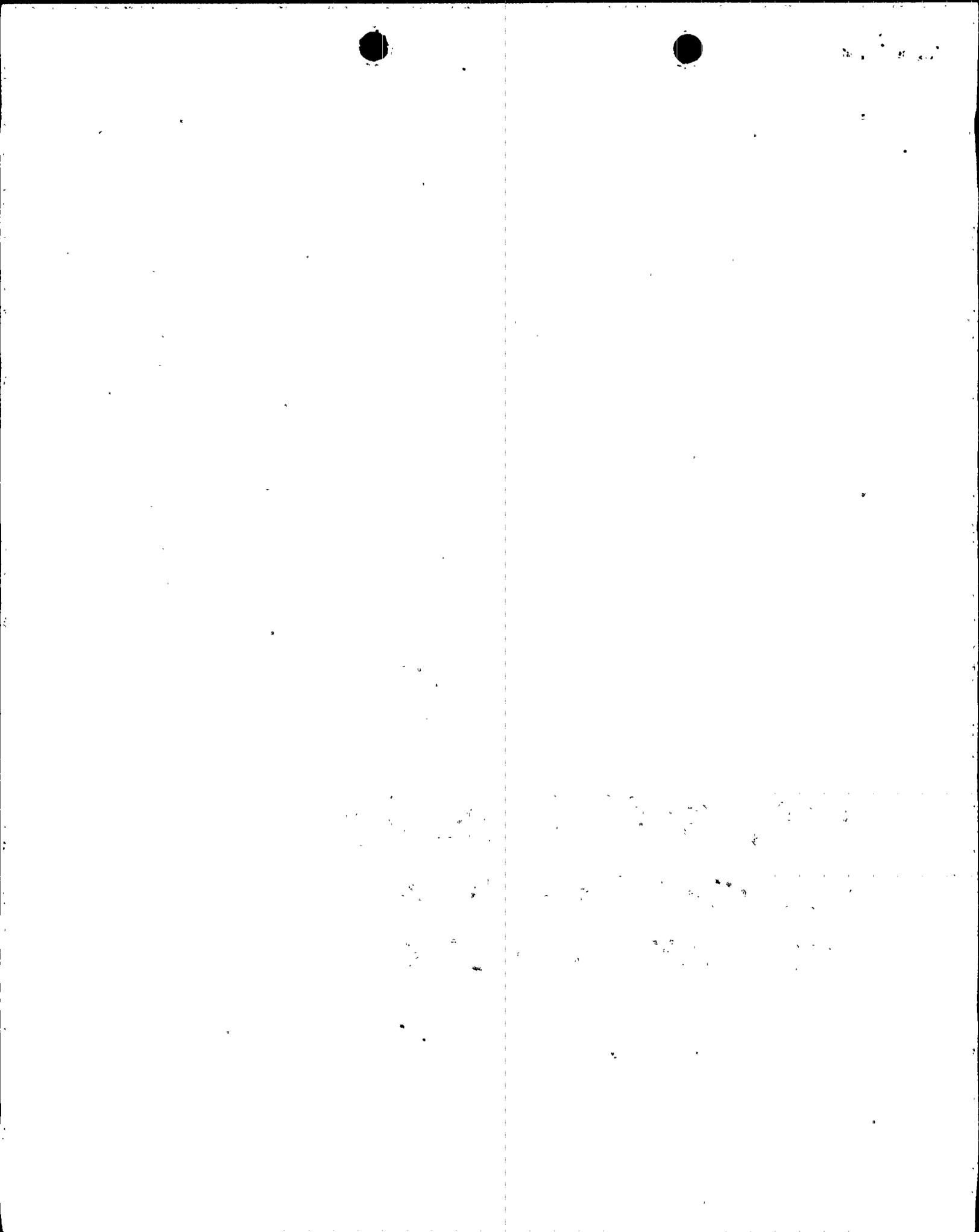
J. B. Martin

L. J. Norton

D. H. Coe

J. M. Gutierrez

G. H. Lyons



I. TECHNICAL ADEQUACY OF EMERGENCY LIGHTING

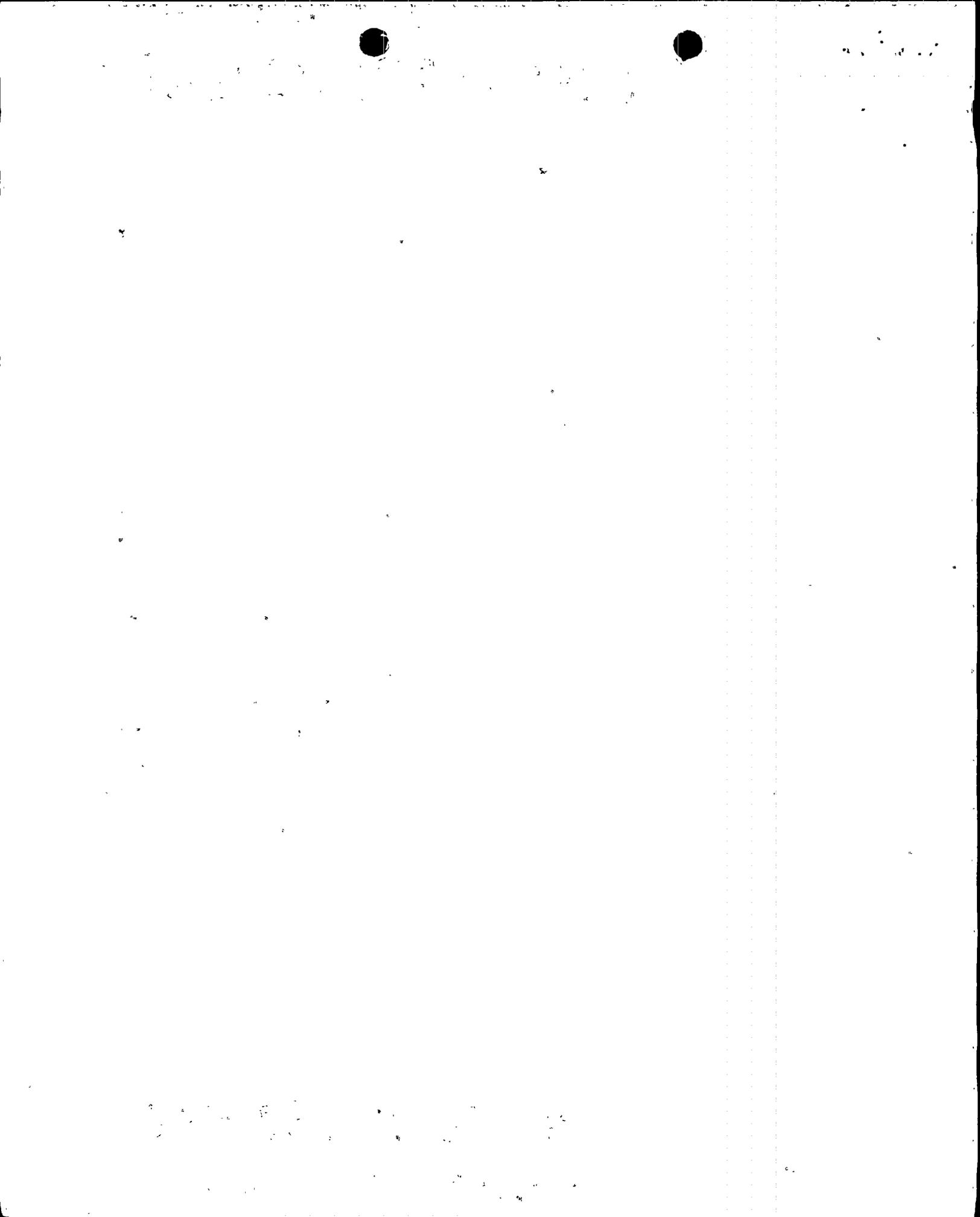
The petition alludes to, but provides no specificity to, serious deficiencies and violations in the Palo Verde emergency lighting and fire protection systems. Moreover, the petition does not identify any specific past violations relative to these systems which have not been corrected. The position of APS concerning the technical adequacy of emergency lighting has been well documented and will not herein be repeated. The principal APS submittals on this subject are dated June 19, 23 and 24, July 13 and 20, and August 1, 1990. APS' August 1, 1990, letter to the Regional Administrator specifically describes a detailed analysis of the availability of emergency lighting at Palo Verde since June 1989. The analysis shows that programs adopted by APS to comply with applicable regulatory requirements for design, procurement, installation, maintenance, testing, and corrective action, have provided, with limited exceptions, emergency lighting that has a high degree of availability. Although concerns have been identified in the areas of fire protection and emergency lighting, APS has been responsive and taken appropriate corrective action. As discussed below, during the course of an NRC inspection at Palo Verde in June 1990, Mr. A. Johnson, Region V Enforcement Officer, asked the Petitioner a question to the effect of whether there is anything in the units now that doesn't meet the requirements or is otherwise a problem. With the exception of one design issue which APS had previously discussed with NRC, the Petitioner stated that she was not aware of any such issue. The design issue, related to calculated capacity of certain batteries at low ambient temperatures, was in the process of correction at that time, and has since been corrected by installing more batteries.

II. WRONGDOING ALLEGATIONS

THERE IS NO REASONABLE BASIS FOR ANY OF THE ALLEGATIONS OF WRONGDOING IN THE PETITION.

A. BACKGROUND

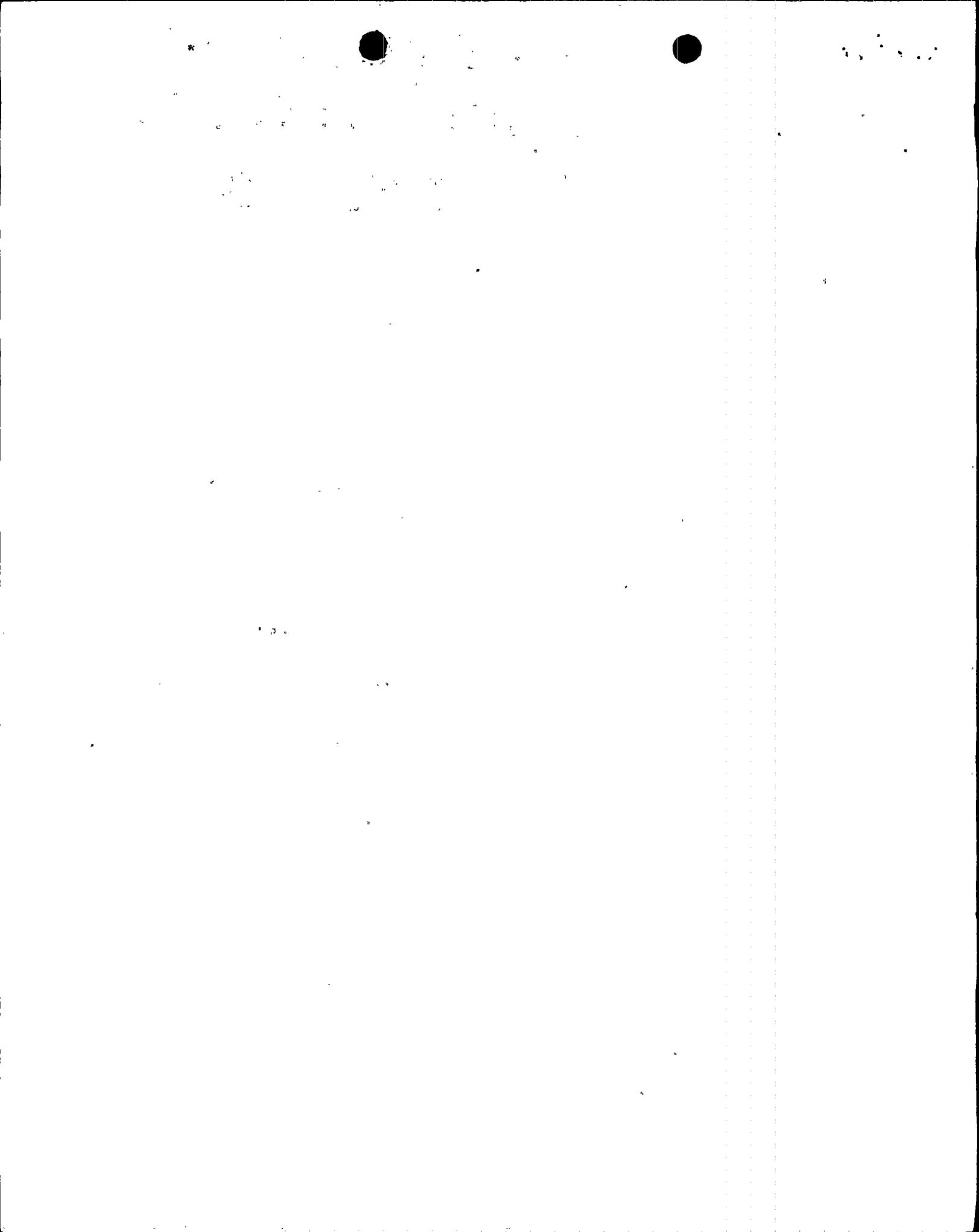
In an effort to better understand the basis for the assertions in



the petition, APS authorized outside counsel to interview people with knowledge of emergency lighting issues associated with the petition and review relevant documentation to determine whether any of the allegations of wrongdoing had merit. This effort was coordinated through the APS Corporate Counsel and no individual implicated in the petition, including those at the senior management level, had authority to direct or otherwise influence the course of the review. Moreover, management was not advised of the information being developed in the course of this review until all persons with relevant information were interviewed and the associated documentation review was essentially complete.

Fourteen allegations of potential wrongdoing were abstracted from the petition. Individuals identified to be interviewed were those who either had been contacted by the NRC in the course of inspections 90-02 or 90-08 or had information relevant to emergency lighting. These individuals were asked a standard series of questions to determine whether or not they had any information relative to the allegations in the petition. Each person was also asked about relevant documentation (such as personal notes of meetings or telephone calls) in their possession and this was reviewed to determine whether any emergency lighting issues were set forth that were neither reflected in APS documentation nor an NRC inspection report.

Documentation in the possession of those interviewed contain approximately 700 entries where some aspect of emergency lighting is mentioned. These documents were reviewed in matrix form against an April 13, 1990, summary of 42 emergency lighting and fire protection



issues, representing APS' best understanding of these issues just prior to the issuance of Inspection Report 90-02. If 90-02 had been "watered-down", it was anticipated that concerns would be identified that were neither reflected in the summary of the 42 issues, the inspection report, nor tracked to resolution in some other appropriate way. 1/

Based upon the individual interviews, document review, and results of the comparison against the APS summary of 42 issues being tracked just prior to the issuance of Inspection Report 90-02, and as summarized herein, APS has compelling evidence that none of the fourteen allegations of wrongdoing in the petition can be substantiated.

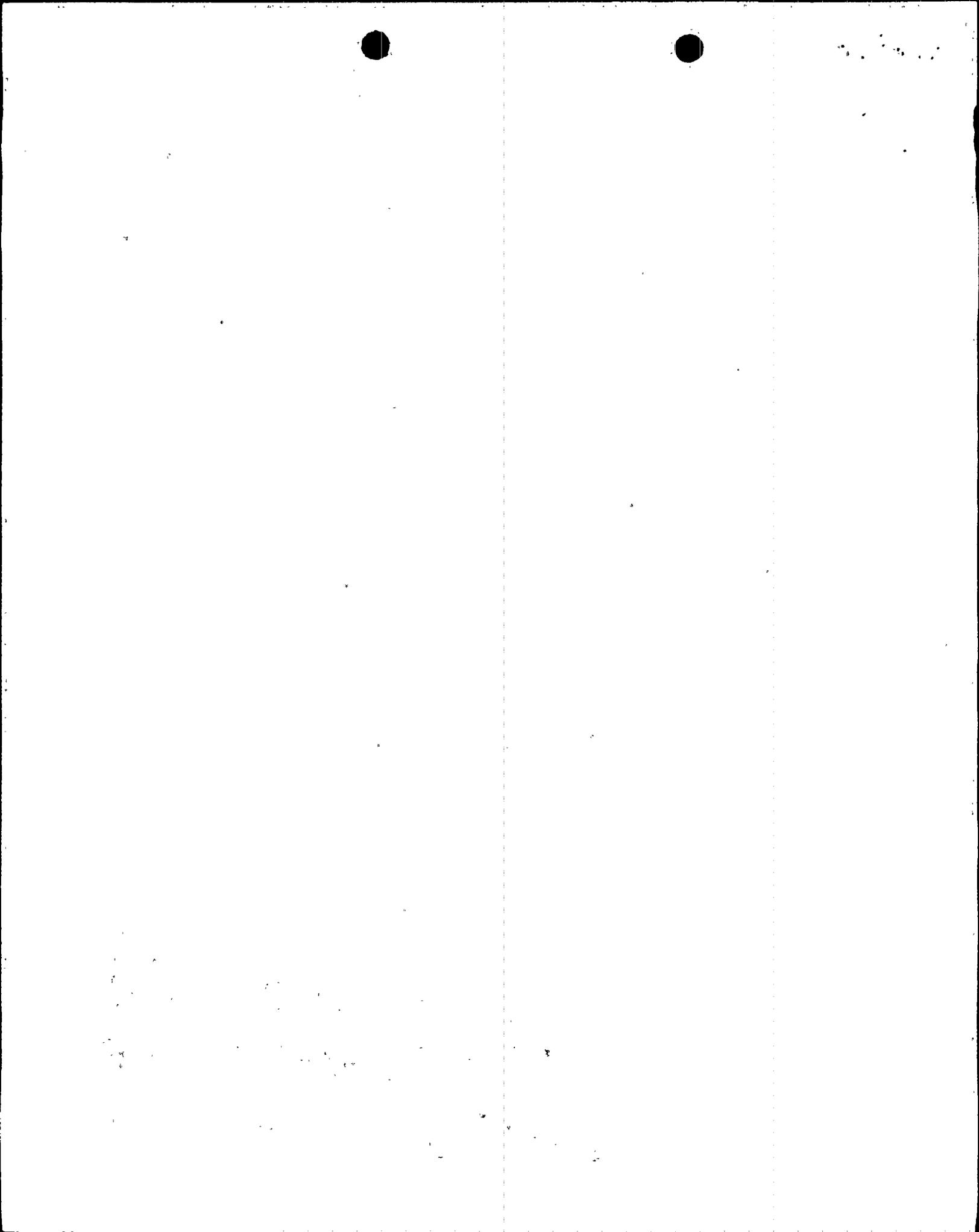
To put the APS response in better context, a chronology of significant interaction between NRC and APS in the course of inspection 90-02 is first presented.

B. CHRONOLOGY

Inspector Charles Ramsey 2/ conducted an entrance meeting with APS site personnel during the last week of January 1990. As is the practice, the APS Compliance Department assigned a compliance engineer to be the inspector's point of contact. Based upon both interviews of persons in attendance and review of their notes, Inspector Ramsey indicated that he would be following-up on both general fire protection and emergency lighting issues. In the course of the two week inspection that followed, Inspector Ramsey apparently questioned

1/ For example, emergency lighting issues not reflected in the list of 42 issues or Inspection Report 90-02, were tracked to Inspection Report 90-08 or resolved in the course of either inspection.

2/ The petition refers to an inspector John Doe throughout and in each interview the inspector was first referred to as John Doe; however, based upon the facts developed in the interviews, it became apparent that inspector John Doe referred to in the Petition was NRC Region V Inspector Charles Ramsey.



the design adequacy of emergency lighting and raised numerous other issues.

On February 9, 1990, Inspector Ramsey held an interim exit meeting after the initial two weeks of his inspection. He indicated that he started with 31 open issues associated with either general fire protection or emergency lighting; that 4 had been closed prior to the start of this inspection; that in the course of his initial two week inspection he reviewed 16 of these items, and of those 16 he closed out 8. APS site personnel briefings of more senior APS management (not in attendance at the interim exit) indicated that although Inspector Ramsey had numerous inspection concerns, APS was taking reasonable steps to address and resolve them.

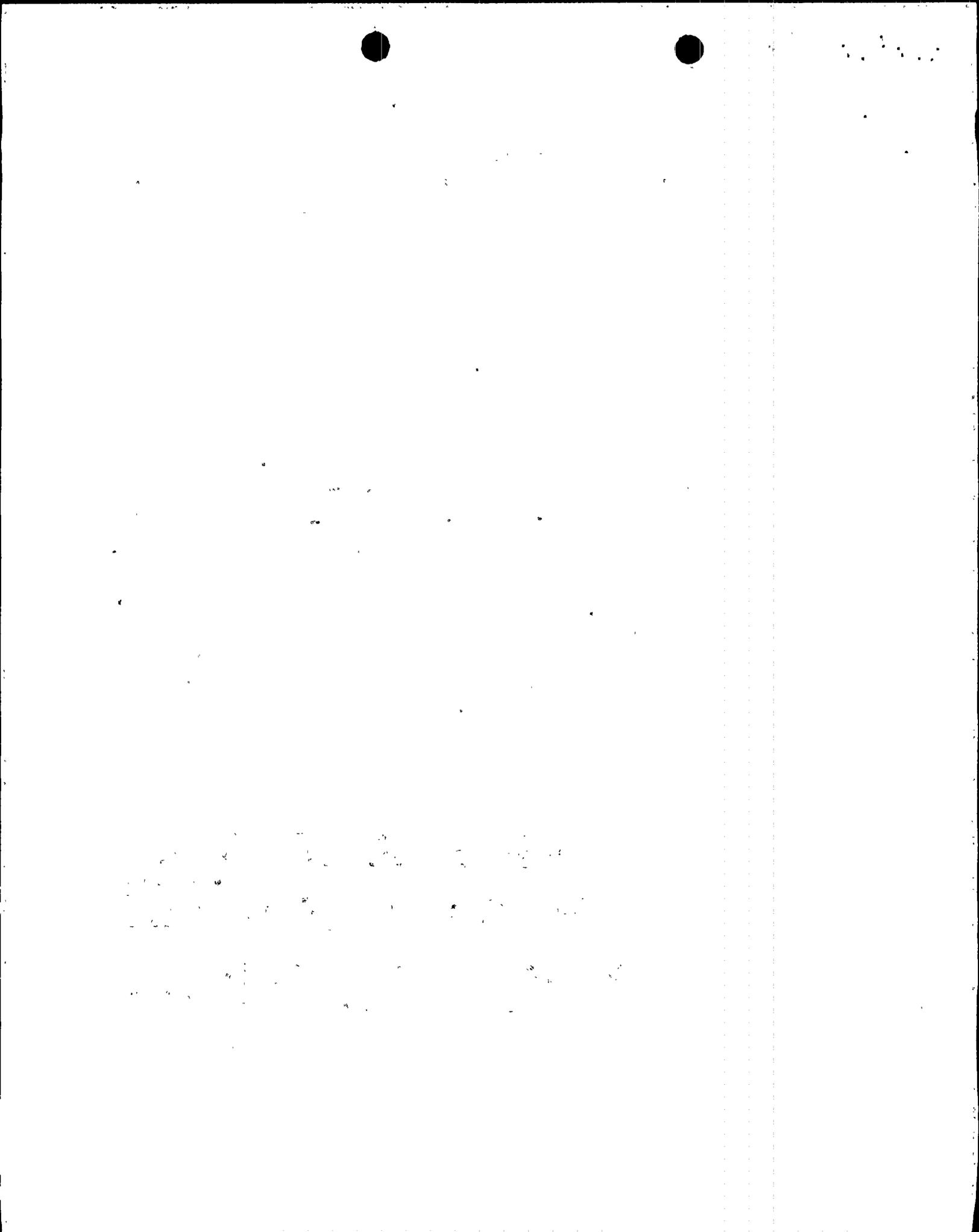
Following Inspector Ramsey's initial exit meeting, he asked a number of follow-up questions by telephone to a number of APS personnel. In a related matter, on February 16, 1990, NRC Inspector W. P. Ang held an exit meeting with APS site personnel wherein untimely corrective actions for inoperable emergency lighting were discussed. This finding eventually resulted in the issuance of a Notice of Violation on March 21, 1990, part of Inspection Report 90-08. On February 21, 1990, a teleconference between APS managers and Region V personnel occurred in an effort to better define the issues associated with emergency lighting and their status. Additionally, Mr. William F. Conway, Executive Vice President Nuclear, spoke by telephone on the 21st or 22nd of February with the NRC Region V Administrator. Although Mr. Conway does not recall the specific issues discussed on the call, he does recall that the Administrator expressed dissatisfaction with emergency lighting at Palo Verde and indicated that emergency lighting issues required more management attention. Subsequent to this call, a follow-up conference call was held with NRC Region V in an effort to better understand the issues the Region had concerning emergency lighting. Mr. James M. Levine, Vice President, Nuclear Production, and Mr. Jack N. Bailey, Vice President, Nuclear Safety and Licensing, were the senior APS representatives on this

call. Several other conference calls occurred within the next few weeks in which APS management at senior levels attempted to identify issues and assign APS personnel to investigate and resolve them. All personnel interviewed indicated that during this period, APS was focused on understanding and responding to NRC technical concerns, and no evidence was identified which suggests APS was complaining to or otherwise discussing with NRC management concerns with particular inspectors.

This effort was still ongoing when Inspector Ramsey returned to Palo Verde during the week of March 19, 1990. During this second site visit, Inspector Ramsey conducted another entrance meeting which again was attended by APS site personnel. It appears that the technical issues Inspector Ramsey was reviewing during this second field inspection, although still associated with emergency lighting, were different from those issues reviewed during his first visit. During this phase, illumination levels and testing methods were two of several contentious issues.

This visit was apparently marked by increased tension and frustration between Inspector Ramsey and APS working level personnel. In particular, Inspector Ramsey had a heated exchange with an APS compliance engineer concerning the criteria to determine illumination levels of emergency lights. Notwithstanding this exchange, on the day prior to the final exit meeting (March 22, 1990) Mr. Levine and Mr. Bailey were briefed by Mr. Tom Bradish, Compliance Manager, to the effect that although the NRC inspectors continued to have open items associated with emergency lighting, APS was aware of these issues and would be resolving them within a reasonable time frame. According to Mr. Bradish, his briefing reflected the views expressed by Inspector Ramsey on that same day.

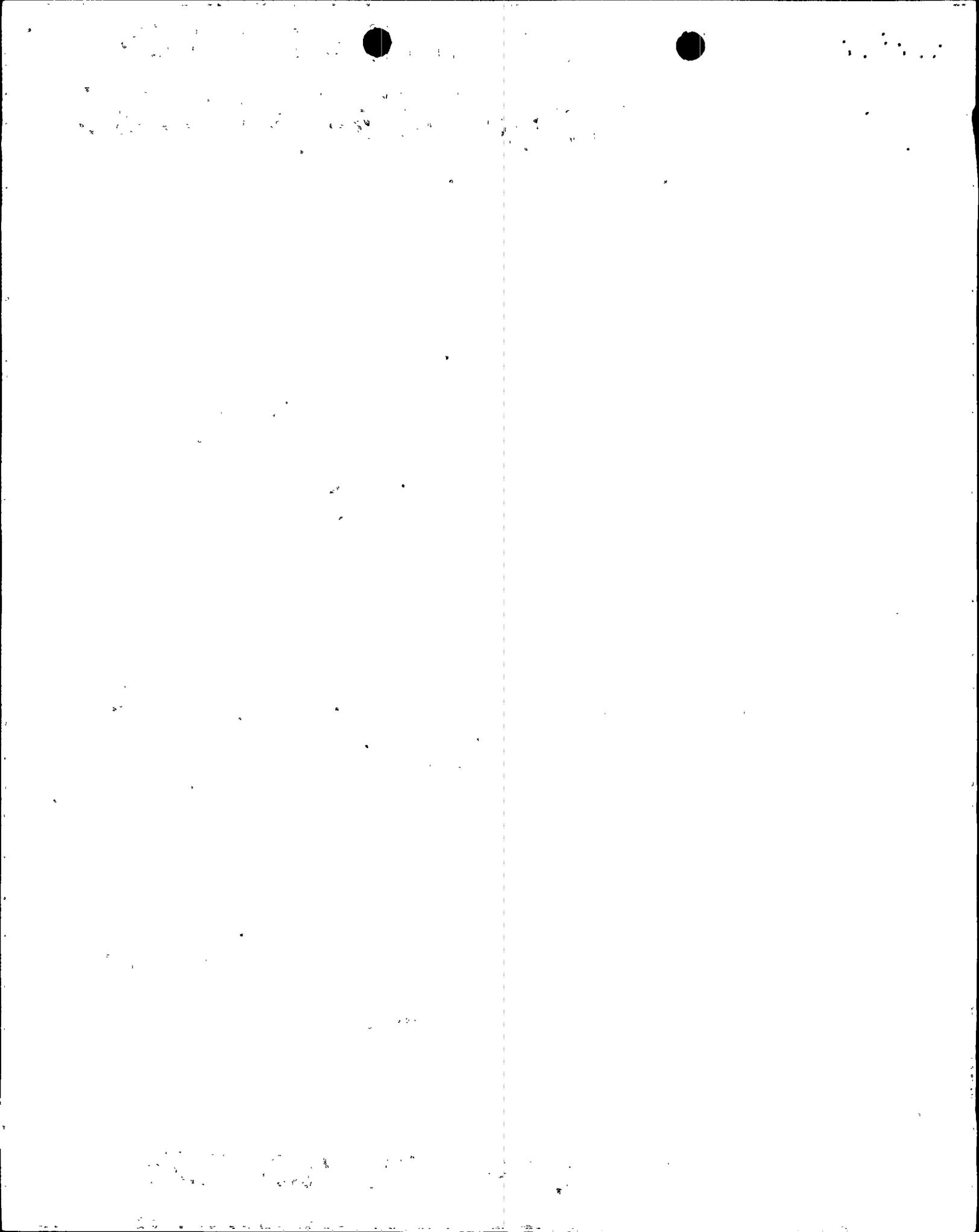
At an exit meeting on March 23, 1990, Inspector Ramsey, in the presence of Inspectors Notley, Chan and Gee, and with Mr. Dennis F. Kirsch, Chief, Reactor Safety Branch, NRC Region V, participating by



teleconference, listed a number of emergency lighting issues. The consistent characterization given by all APS personnel present during that exit meeting was one of surprise, in that APS management felt they were either being notified or understanding these issues for the first time. Following Inspector Ramsey's presentation, Mr. Kirsch emphasized that regional management felt the same level of concern relative to these same issues. Immediately following the March 23, 1990, exit meeting, Mr. Bradish spoke with Inspector Ramsey about what transpired in the meeting. Mr. Bradish indicated that although Inspector Ramsey conveyed the emergency lighting issues that remained open, Mr. Bradish did not feel it was a balanced presentation in that Inspector Ramsey never discussed the ongoing APS corrective actions. According to Mr. Bradish, Inspector Ramsey apologized and offered to convey this to APS management. Immediately after this conversation Inspector Ramsey rode down on the elevator with Mr. Levine and apparently Inspector Ramsey expressed this sentiment to Mr. Levine.

In any event, the internal APS meeting following the exit meeting has been characterized by all APS personnel present as focused on responding to the technical issues raised during the exit meeting and not on any personnel concern with respect to the conduct of any of the NRC inspectors.

Possibly on the same day or several days after the March 23rd exit meeting, Mr. Levine received a call from Mr. Roy P. Zimmerman, Director, Division of Reactor Safety and Projects, NRC, Region V, indicating that it was the Region's preference to add emergency lighting to those issues which would be discussed after an enforcement conference on an unrelated matter already scheduled for March 30, 1990, at Region V. All working level people involved in emergency lighting during the week ending on March 30, 1990, have characterized this week as focused on the technical issues raised in the course of the final exit meeting on March 23rd. However, it also appears that in the course of this week Mr. Bailey indicated to Mr. Zimmerman that he wanted to talk to him concerning NRC/APS communications (both the

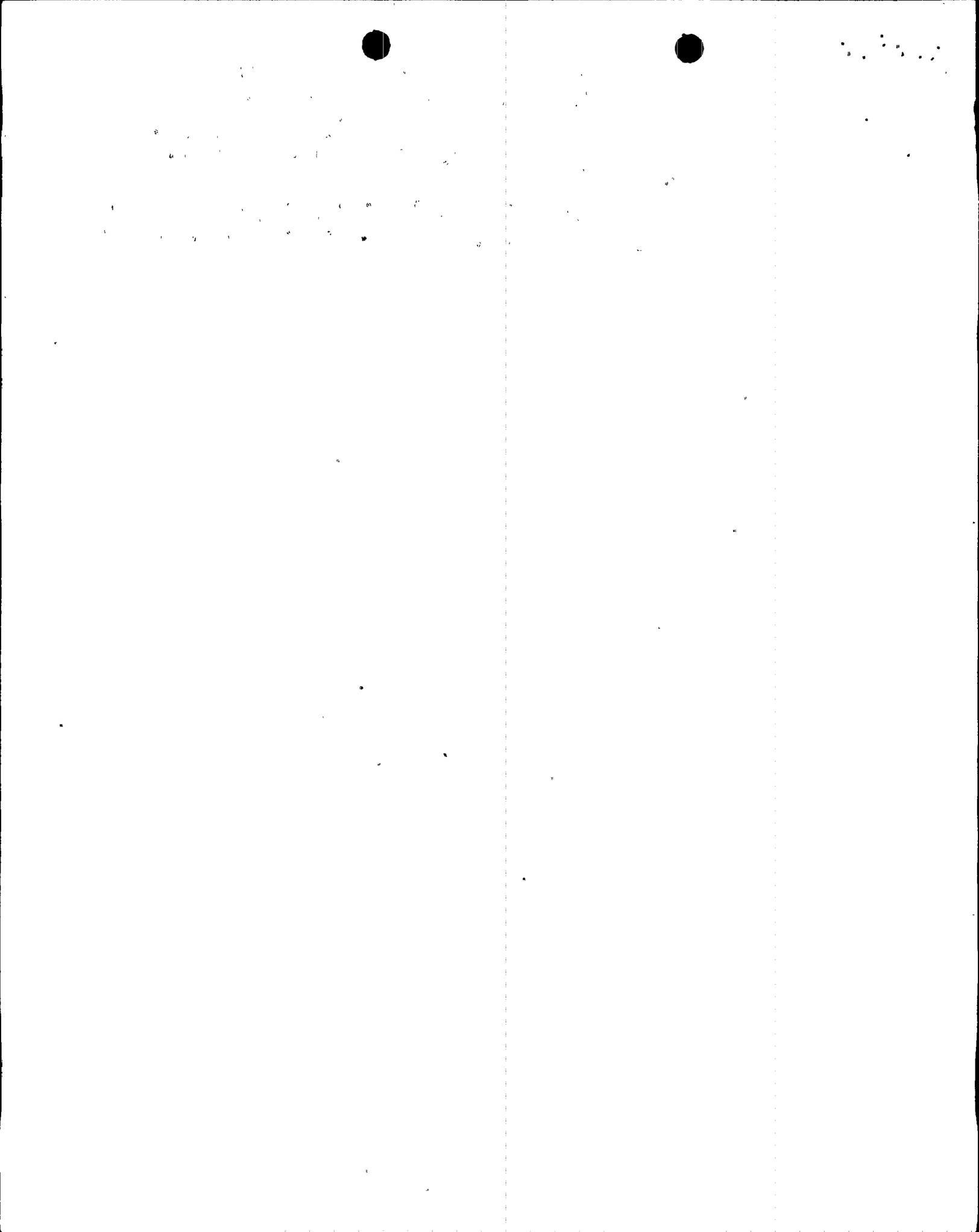


lines of communications that should be established between Region V and APS and how to make communications more effective in the sense of the timely raising of safety issues). This could have created an expectation at the APS working level that APS management was going to talk to NRC management specifically about Inspector Ramsey, however, no person interviewed in this investigation confirmed this speculation.

On March 26, 1990, an APS compliance engineer called Inspector Ramsey on several follow-up inspection issues. During this call, Inspector Ramsey stated that he had been treated with courtesy during his inspection and that he had received the information he had requested. Inspector Ramsey said that he did not believe that APS had done anything wrong. Inspector Ramsey also indicated that he believed that he kept APS informed of the status of his inspection.

On March 30, 1990, a meeting took place between APS and NRC Staff personnel dealing with technical issues associated with emergency lighting. It revealed certain areas of disagreement between the Staff and APS and a recognition that further work needed to be done by both parties. Some of the difficulty encountered in this meeting can be traced to missed or ineffective communication. Specifically, APS brought an engineer to discuss the design adequacy of the emergency lighting system, but many of the Region's questions focused on the performance/reliability of the system in the field. Thus, APS was unable to answer certain detailed field questions and this added to some sense of irresolution.

Following the general March 30th meeting, Mr. Zimmerman, Mr. Stuart Richards, Chief, Reactor Projects Branch, NRC, Region V, Mr. Bailey and Mr. Levine went to Mr. Zimmerman's office where a general discussion ensued regarding APS' expectations as to how they hoped technical issues would be communicated. The new APS management, of which both Mr. Bailey and Mr. Levine are a part, had an ongoing effort to improve effective communications with the NRC. In this context, Mr.



Bailey indicated a preference that he be the principal point of contact on regulatory matters. He went on to indicate that when an inspector has a technical issue in the course of an inspection, it would be desirable to place the issue "on the table" so that the Company might have an opportunity to provide any relevant information prior to the exit meeting. The conduct of inspection 90-02 was discussed as an illustration of poor communication.

Mr. Conway also met with Mr. Martin on March 30, 1990. Although Mr. Conway does not recall the substance of all that was discussed, he does not believe that emergency lighting was discussed since it was his impression that the respective staffs had further work to do before meaningful dialogue could occur.

As a result of the March 30, 1990, meeting with the NRC, APS designated a working group to resolve emergency lighting issues. Over the next two weeks, NRC officials and APS officials had at least three teleconferences to clarify emergency lighting issues. Specifically, on April 3, 1990, several working level and middle managers from the Region and APS had a teleconference discussing emergency lighting issues. On April 5, 1990, Inspector Ramsey called an APS compliance engineer to reiterate the matters discussed on the 3rd. Finally, on April 16, 1990, NRC Regional management contacted APS management for purposes of indicating the emergency lighting issues they viewed as significant and that would be reflected in Inspection Report 90-02. Relevant documentation indicates that the issues discussed in each of the three calls were substantially the same and fairly reflected in Inspection Report 90-02 and the APS summary of 42 issues.

Inspection Report 90-02 was issued on April 24, 1990. The Report indicated in its transmittal letter the NRC's desire to hold a meeting to better define and hopefully resolve emergency lighting issues. That meeting occurred on May 16 and 17, 1990, in Phoenix. It was the impression of those in attendance that emergency lighting issues were being effectively addressed and resolved. This view was based on



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separate conversations between Mr. Randy Huey of the NRC with Mr. E. C. Simpson, Vice President, Nuclear Engineering and Construction, and Mr. Bailey, and by a separate discussion between Inspector Ramsey and Mr. Bradish of APS.

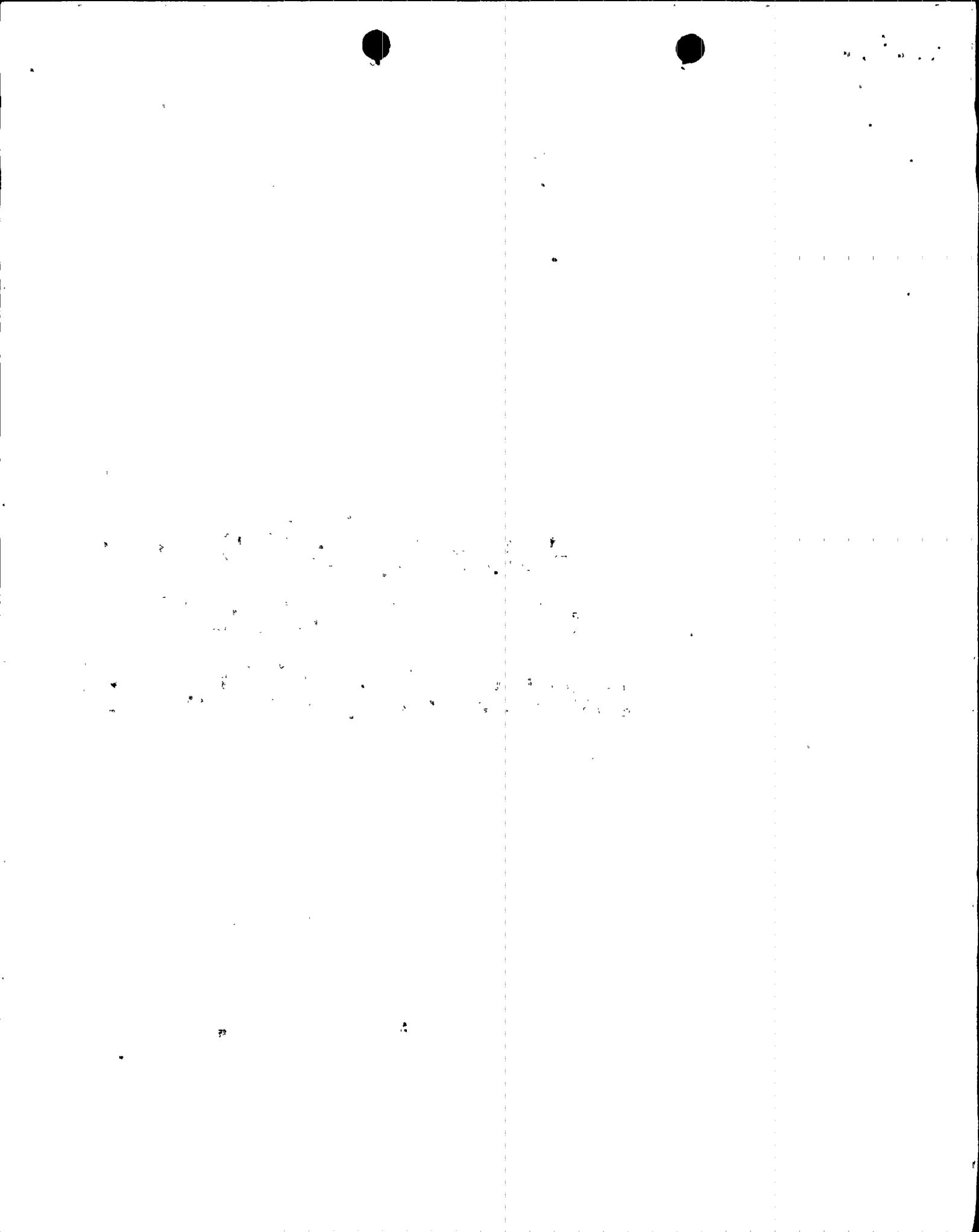
One final point is worth noting. Throughout the series of communications just outlined, Mrs. Mitchell was one of the cognizant engineers providing APS management with documentation and positions that formed the basis, in part, for discussions with the NRC on emergency lighting. Throughout this inspection process, which at times was admittedly heated and certainly protracted, Mrs. Mitchell never discussed with her immediate supervisors or other APS personnel interviewed any dissatisfaction of the handling of these matters. In fact, neither Mr. Samuels, Mr. Smyers (her immediate and second level supervisors) nor any other APS official who interacted with Mrs. Mitchell can reconcile their day to day experience and communication with Mrs. Mitchell with the wrongdoing assertions set forth in her petition. Moreover, in the course of a June 14, 1990, meeting between the NRC and APS, Mrs. Mitchell was specifically asked, by the NRC, a question to the effect of whether there is anything in the units now that doesn't meet the requirements or is otherwise a problem, and she indicated that except for one design issue that had been previously described to NRC by other APS personnel, she knew of no such issue.

C. SUBSTANTIVE REPLY TO ALLEGATIONS

Against this background, APS addresses each of the wrongdoing allegations in the petition:

1. "...due to the improper influence from APS officials Inspection Report 90-02 was watered down to cover up additional concerns raised by Petitioner and verified by an NRC Inspector John Doe."

APS denies this allegation. This allegation does not specify the improper influence to which it alludes and therefore it is difficult to meaningfully respond beyond a categorical denial. In response to this broad charge, however, suffice to say that the review of



interactions between APS and NRC in the course of 90-02 and 90-08 has revealed no attempt on the part of APS to influence the NRC in any improper way. Surely, there were differences of opinion between APS and NRC relative to the adequacy of emergency lighting and the conduct of inspection 90-02; however, such differences were focused on technical or regulatory interpretations.

APS is also unaware of any additional concerns that may have been raised by the Petitioner and confirmed by an NRC inspector, which were deleted from Inspection Report 90-02. If any such concern was deleted from a draft of Inspection Report 90-02, APS has no information to suggest it was as a result of improper conduct on the part of any APS employee.

At all times during the conduct of inspection 90-02, the Petitioner was an active participant on behalf of APS, answering NRC inspector's questions and providing information and documentation. As a result, the other APS personnel involved in inspection 90-02 were asked if they had any information relative to a concern raised by the Petitioner that was confirmed by the inspector but deleted from 90-02 due to APS action. None of these personnel were aware of any such concern. This, coupled with the Petitioner's statements of June 14, 1990, just summarized in the chronology, leave APS unable to further address this allegation.

2. "Prior to the issuance of Inspection Report 90-02 APS was informed by the NRC Region V Inspection Team of approximately 14 potential Violations which could result in substantial Civil penalties and/or fines."

Based upon the petition, it is unclear whether or not the Petitioner feels this allegation involves wrongdoing. APS' review of the conduct of inspections 90-02 and 90-08 indicate that standard NRC exit interviews were conducted. As set forth in the chronology, due to the number of NRC concerns and apparent differences of opinion between APS and NRC technical personnel in the course of inspection 90-02, a



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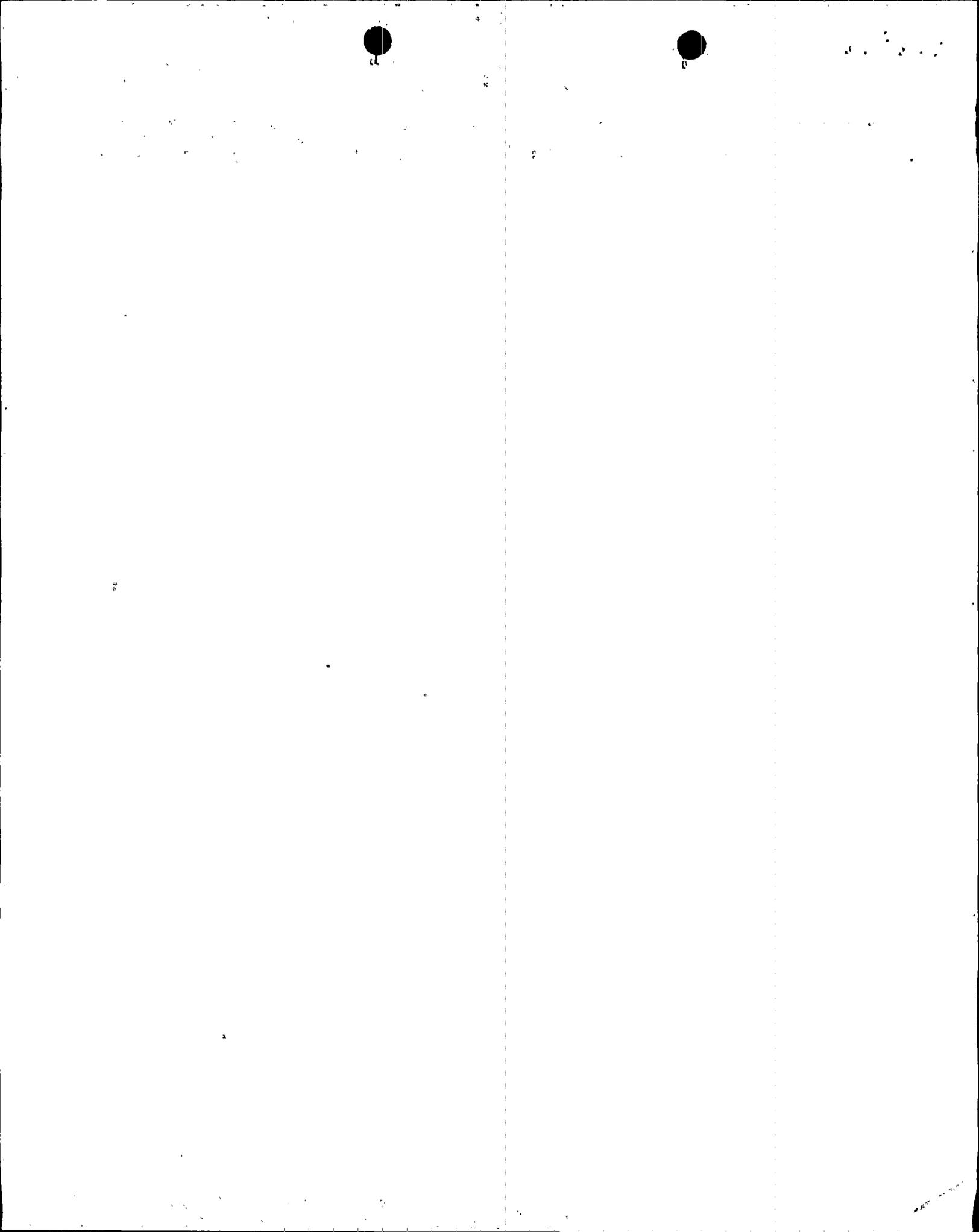
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follow-up management meeting and several teleconferences also occurred after the March 23, 1990, exit meeting and prior to the issuance of Inspection Report 90-02. Although some issues may have been characterized as potential violations in the course of those discussions, no information has been developed to substantiate a charge that substantial civil penalties or fines were discussed.

3. "Upon learning of these serious potential violations APS management, including E. C. Simpson, APS Vice President, Nuclear Engineering and Construction, began a concerted effort to harass and discredit the John Doe NRC Inspector through his superiors at NRC Region V."

No information has been developed to suggest such an effort was made by either APS, its management, or any individual within APS. Mr. E. C. Simpson did not join APS until February 19, 1990. His only involvement in Inspection Report 90-02 was his attendance at the March 23, 1990, exit meeting wherein he had no substantive discussions with any NRC representative. Moreover, other than listening to (but not participating in) the April 16th teleconference recounted in the chronology, Mr. Simpson had no further contact with any NRC official relative to emergency lighting until after Inspection Report 90-02 was issued.

APS has no further information relative to the bold, unsubstantiated assertion of a "concerted effort to harass and discredit the John Doe NRC inspector through his superiors at NRC Region V. As indicated in the chronology, in the course of the meeting in Mr. Zimmerman's office following the March 30, 1990, management meeting in Region V, APS officials expressed the concern that technical issues be raised as soon as possible during an inspection so that APS could be given an opportunity to promptly explain or correct any concern. The March 23, 1990, exit meeting was discussed only as an illustration of poor communications.



4. "APS' intent was to cover up and suppress additional serious violations, many of which Petitioner's supervision at APS recognized were legitimate concerns."

APS denies this charge and is totally at a loss to explain its basis. It is inconsistent with everything APS stresses to its employees and is totally without foundation. Over the past year, APS has instituted a model Employee Concerns Program and the Petitioner has fully availed herself of that program. Additionally, all APS personnel interviewed, including the Petitioner's supervisors, were asked whether they had any knowledge pertaining to this allegation and they indicated they did not.

5. "Petitioner personally witnessed her superiors at APS state that APS was about to contact NRC management to 'back-off' the John Doe inspector."

No evidence was developed to suggest "APS was about to contact NRC management to 'back off' the John Doe inspector. " However, one of Petitioner's supervisors may have used language in the Petitioner's presence from which this might have been inferred. Conversations with this individual revealed that he may have used language to indicate that he desired to correct the Inspector's technical concerns and that he thought the Inspector should be 'backed off' his views by a thorough technical response. Based upon interviews with other working level personnel who dealt with Inspector Ramsey in the course of Inspection Report 90-02, the view appears to fairly characterize the sense of frustration among this group in dealing with Inspector Ramsey.

6. "APS Employees, including Kristin McCandless Clark, made disparaging and false comments about John Doe, openly criticized John Doe for aggressively monitoring the Palo Verde Emergency Lighting System and, over a two-week period that APS management was going to get rid of" John Doe.

In light of the frustration that existed on the part of both Inspector Ramsey and the APS working level it is possible that disparaging



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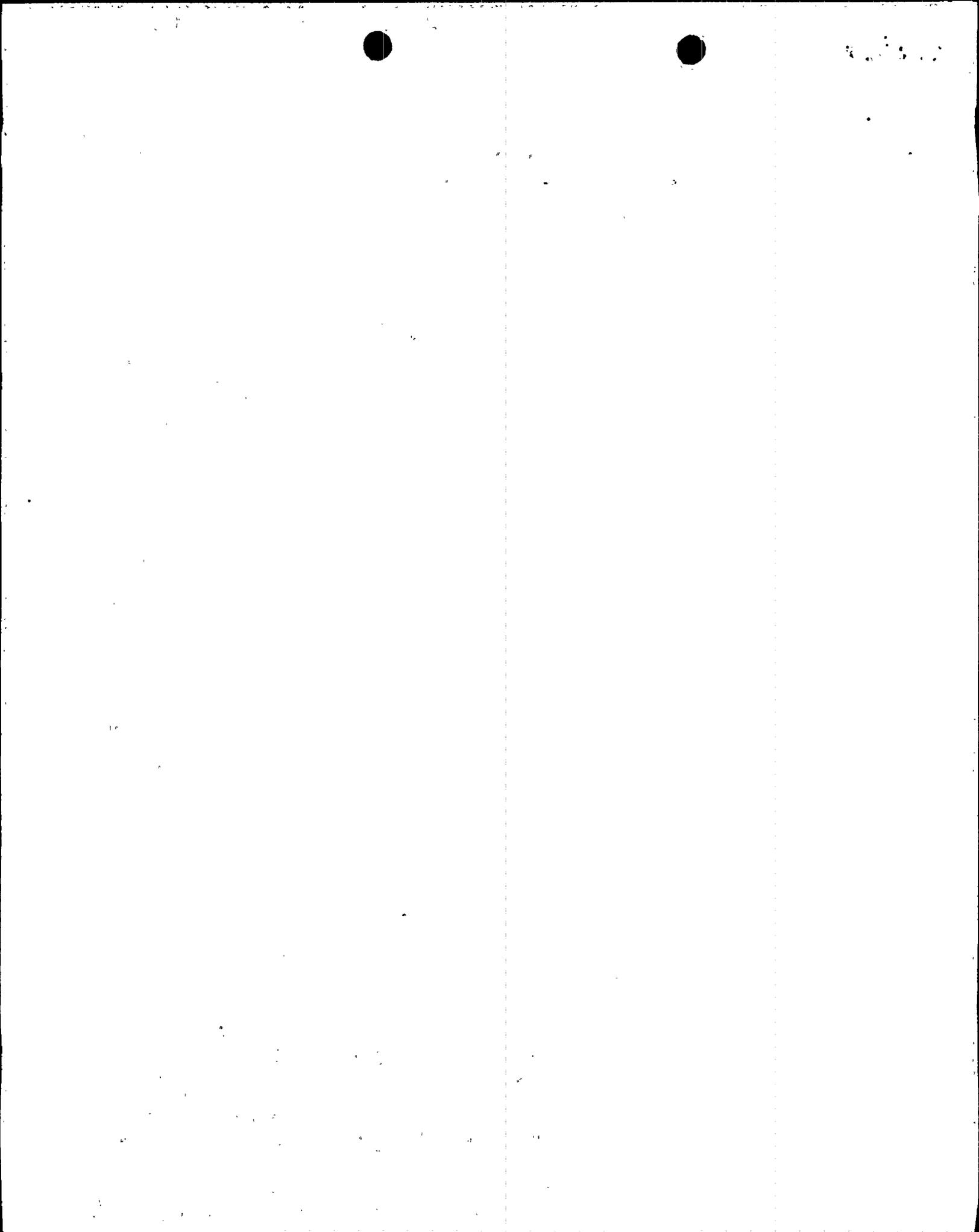
personal comments were made within the APS organization. It is equally clear APS management did not act on any such comments or boast that it "was going to get rid of John Doe. " No information was developed that false statements were made concerning any NRC inspector and APS developed no information to substantiate improper conduct on the part of Mrs. Kristin McCandless Clark.

7. "In addition, Petitioner's immediate supervision often referred to John Doe as "your buddy" in conversations with Petitioner and bragged that APS was about to get John Doe in trouble for being too aggressive."

As to referring to Inspector Ramsey as "your buddy", the Petitioner made no secret of the fact that she was in routine direct contact with this inspector. Consequently, there is evidence that Petitioner's co-workers and low-level supervision referred to him as "your buddy". Interviews also revealed that when NRC personnel are on site they are often referred to in a humorous non-demeaning way as "someone's buddy."

It is also clear that many APS working level personnel in the emergency lighting area thought Inspector Ramsey was aggressive, but not in the sense that he was looking too hard at too many issues; rather, that he reviewed issues at a level of detail disproportionate to their apparent safety significance, lacked interpersonal skills, wanted answers to questions in an unreasonably short time and made other administrative demands at the working level. There is no evidence to suggest any APS official sought to get an NRC inspector "in trouble for being too aggressive."

8. "On or about May 10, 1990, an APS employee told Petitioner that APS would get John Doe transferred to Region IV because he was causing too much trouble for Palo Verde and the San Onofre Nuclear Generating Station ("SONGS") regarding 10 CFR 50, Appendix R. Emergency Lighting Requirements."



APS is unaware of who, if anyone at APS, told the Petitioner this, and more importantly, categorically denies the allegation that APS in any way attempted to get an NRC inspector transferred for any reason. No one interviewed had any information to suggest any basis for this allegation.

9. "Upon information and belief, APS learned that John Doe had confirmed that APS parts used in the PVNGS Emergency Lighting System did not meet Appendix R requirements by failing to burn for sufficient hours and could not withstand heat levels at PVNGS."

Numerous persons within APS knew NRC had this and other concerns regarding the compliance of Appendix R emergency lighting at PVNGS. APS believes this involves a technical disagreement between APS and NRC, and not any aspect of wrongdoing. These technical disagreements have been the subject of management meetings, inspection reports and an enforcement conference and should be resolved outside the context of the disposition of the petition.

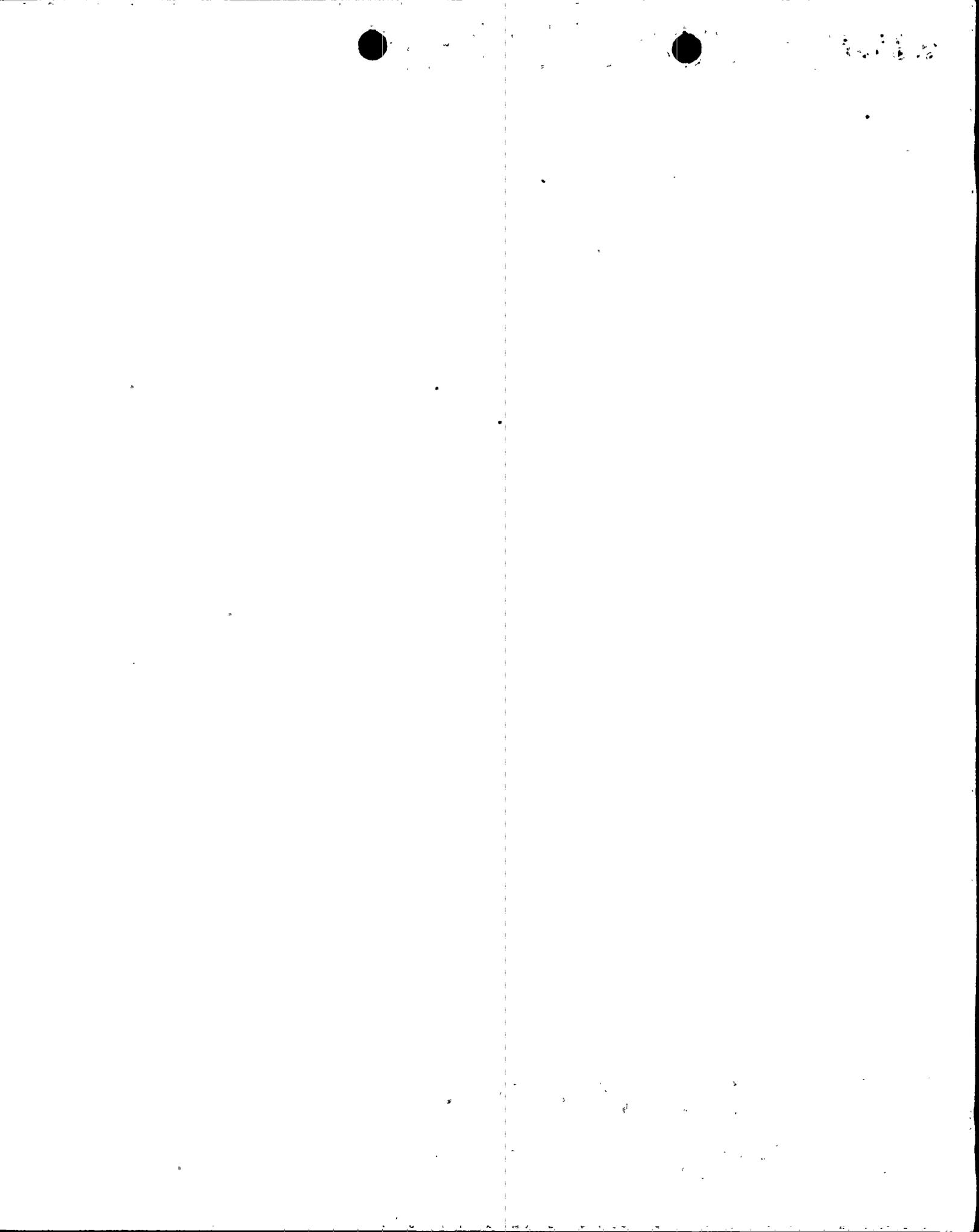
10. "Upon information and belief, James M. Levine, APS Vice President, Nuclear Production, contacted R. P. Zimmerman, Director, NRC Region V, Division of Reactor Safety and accused John Doe of misconduct."

Mr. Levine unequivocally denies contacting Mr. R. P. Zimmerman or any other NRC official for the purpose of accusing Inspector Ramsey or any other NRC inspector of misconduct. Mr. Levine participated in numerous teleconference calls with the NRC in the course of 90-02 on emergency lighting, but all such contacts focused on the technical concerns and bringing them to resolution. No evidence was developed to suggest any other APS personnel were either privy to such a contact by Mr. Levine or even thought such a contact occurred.

11. "Upon information and belief, Mr. Conway contacted John Martin, NRC Region V Administrator, and also accused John Doe of misconduct."



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Mr. Conway unequivocally denies contacting Mr. John Martin or any other NRC official for the purpose of accusing Inspector Ramsey or any other NRC inspector of misconduct. Mr. Conway participated in one meeting and had several telephone calls with the NRC on emergency lighting, but all such contacts focused on the technical concerns and bringing those concerns to resolution. No evidence was developed to suggest any other APS personnel were either privy to such a contact by Mr. Conway or even thought such a contact occurred.

12. "Upon information and belief, the contacts by Mr. Conway and Mr. Levine of APS to John Doe's Superiors at NRC Region V contained misrepresentations and false accusations and were intended to impede and interfere with an ongoing NRC inspection."

Refer to answers 10 and 11.

13. "Upon information and belief, John Doe was retaliated against by NRC Region V management as a direct result of the communications made by Mr. Conway and Mr. Levine."

APS has no information on whether an NRC inspector was or was not, retaliated against by NRC Region V management" but, if any retaliation occurred, categorically denies that it could reasonably have resulted from anything said by either Mr. Conway or Mr. Levine.

14. "Upon information and belief, NRC Inspection Report 90-02 was watered down by the NRC Region V management in order to whitewash significant safety problems at Palo Verde as a direct result of the communications made by Mr. Conway and Mr. Levine."

APS has no information to suggest safety problems identified in the course of Inspection 90-02 were not reflected in the related inspection report. If any such concerns were not documented in the report, APS categorically denies it could reasonably have resulted from anything said by either Mr. Conway or Mr. Levine. As set forth above, APS has convincing evidence that all issues raised in the course of Inspection 90-02 associated with emergency lighting were



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dealt with professionally, responsibly and appropriately.

III. REPLY TO REQUESTED SANCTIONS.

Based upon the above:

1. There is no basis to institute the requested proceeding against APS to modify, revoke, or suspend the Palo Verde licenses.
2. There is no basis to find that violations were improperly or illegally deleted from Inspection Report 90-02.
3. Assuming NRC has the authority to grant such a remedy, there is no basis to fine either Mr. William F. Conway or Mr. James M. Levine, or to conclude that either tampered, obstructed, or impeded an ongoing NRC inspection. In fact, the evidence supports the finding that both Mr. Conway and Mr. Levine acted responsibly and appropriately.
4. APS is unaware of any NRC employee involved in retaliation against inspector John Doe.
5. No further relief is appropriate nor should any such request be entertained and the petition should be denied in full.

