

UNITED STATES NUCLEAR REGULATORY COMMISSION

DOCKET NOS. 50-528, 50-529, and 50-530

ARIZONA PUBLIC SERVICE COMPANY

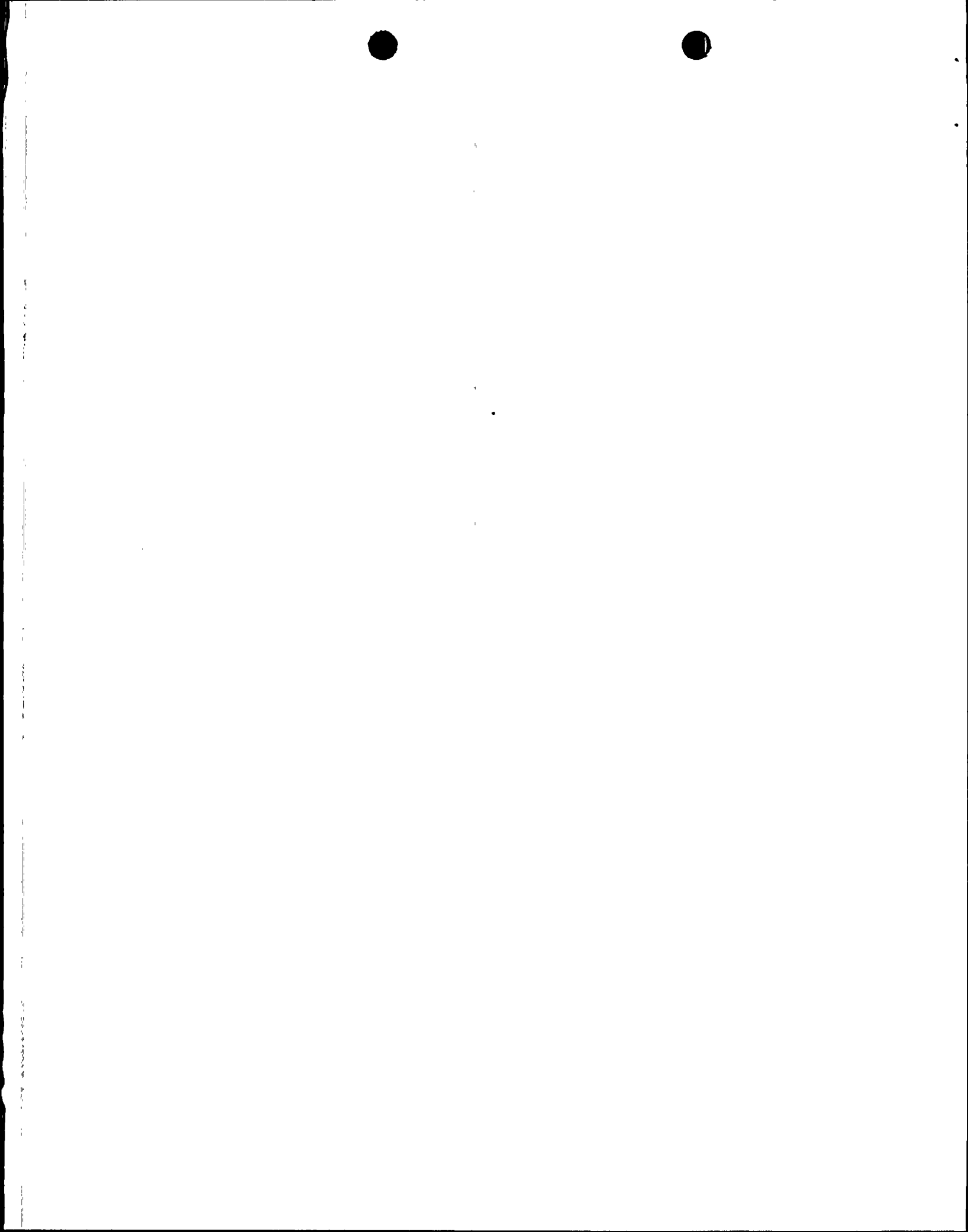
PALO VERDE NUCLEAR GENERATING STATION, UNITS 1, 2, AND 3

ISSUANCE OF DIRECTOR'S DECISION UNDER 10 CFR §2.206

Notice is hereby given that the Director, Office of Enforcement, has taken action with regard to a Petition for action under 10 C.F.R. §2.206 received from David K. Colapinto, of the National Whistleblower Center, dated July 20, 1992, on behalf of Sarah C. Thomas and Linda E. Mitchell (petitioners), regarding the Palo Verde Nuclear Generating Station, Units 1, 2, and 3.

Petitioners alleged that Arizona Public Service Company (APS or the licensee) had violated NRC regulations prohibiting employment discrimination against employees who engage in protected activity. Petitioners requested that the Commission issue a civil penalty to APS in the amount of \$1.2 Million. Petitioners also requested that the NRC institute a proceeding to suspend, modify, or revoke the licenses held by APS to operate the three units at the Palo Verde facility.

As a basis for this allegation, petitioners submitted two Recommended Decisions by Administrative Law Judges (ALJs) of the Department of Labor (DOL) holding that APS had unlawfully discriminated against each petitioner because they raised safety concerns both to APS management and to the NRC. The first ALJ found that APS had reassigned Ms. Thomas to a more demanding and

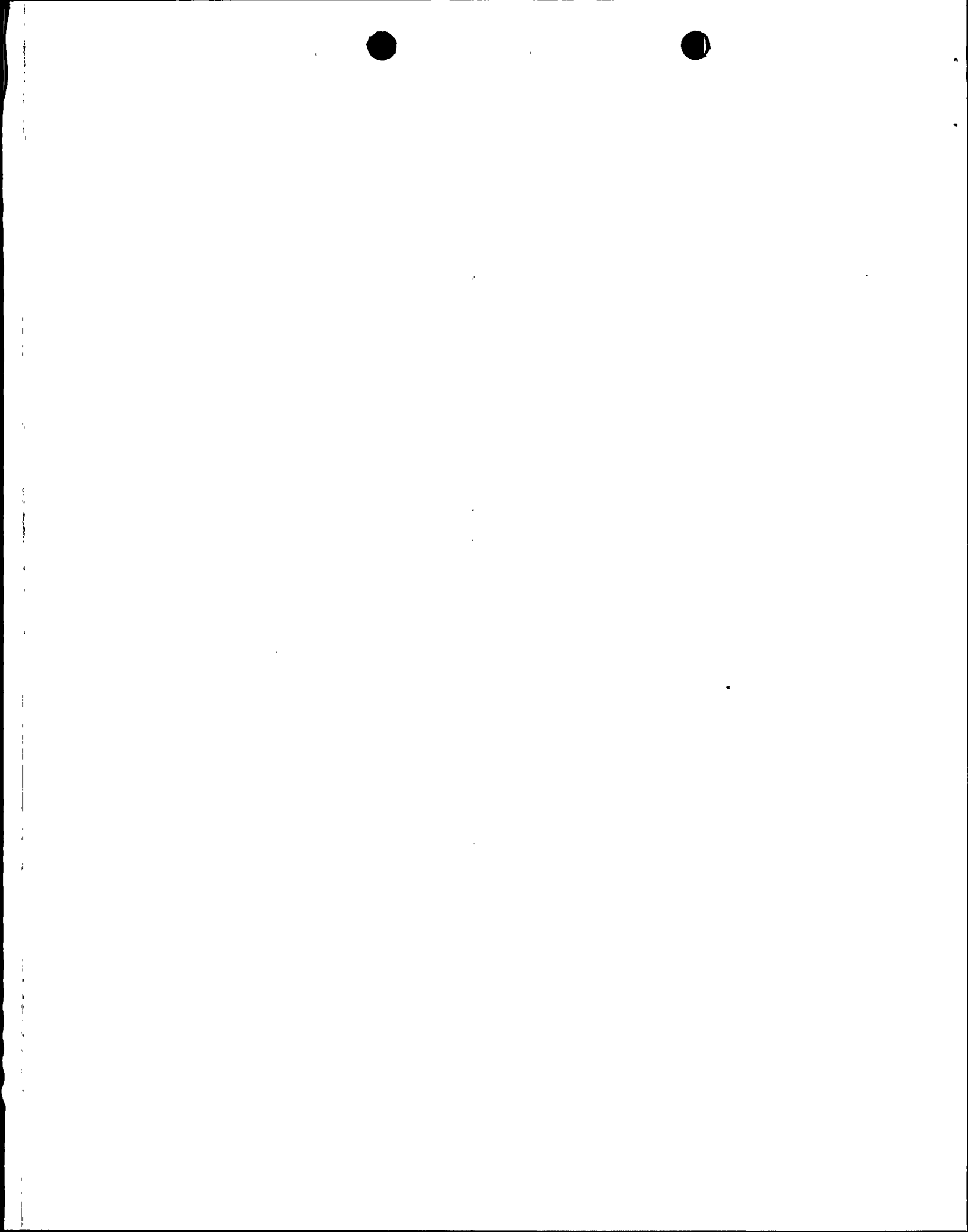


less desirable job because she raised safety concerns to higher APS management. The ALJ also found that APS subsequently denied Ms. Thomas a promotion, treated her differently from another employee when both were being considered for another promotion, required her to complete unnecessary training, and suspended her certifications to conduct various tests.

The second ALJ found that Ms. Mitchell was discriminated against as a result of the presence of a "hostile work environment." Specifically, the ALJ found that Ms. Mitchell was subjected to a series of actions which comprised a hostile work environment in retaliation for engaging in certain protected activities. The protected activities included raising safety concerns to APS management and to the NRC, including concerns regarding problems with the emergency lighting at Palo Verde. The ALJ found that APS management failed to take prompt effective action to halt this harassment.

The Director of the Office of Enforcement has decided to grant the Petition in part and deny the Petition in part. In accordance with NRC Enforcement Policy, the NRC has issued a civil penalty (EA 92-139) of \$130,000 to APS for the two violations as found in the Recommended Decisions. However, because all Recommended Decisions by DOL ALJs are automatically reviewed by the Secretary of Labor, the NRC has allowed APS to defer payment of the civil penalty until after the DOL completes its review.

The Director denied petitioners' request for an additional civil penalty to be assessed against APS. The Director also

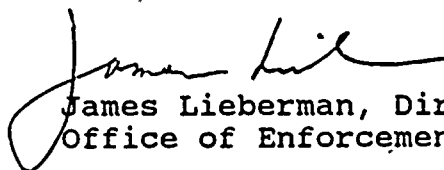


denied petitioners' request to institute a proceeding to revoke, suspend, or modify the Palo Verde licenses. The reasons for these denials are explained in the "Director's Decision Under 10 CFR 2.206," (DD-92-07) which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20555, and at the Local Public Document Room for the Palo Verde Nuclear Generating Station, the Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004.

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

Dated at Rockville, Maryland, this 23rd day of November, 1992.

FOR THE NUCLEAR REGULATORY COMMISSION


James Lieberman, Director
Office of Enforcement

