



Florida Energy Consultants, Inc.

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May 27, 1994

Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Petition Filed Under 10 C.F.R. 2.206

Dear Sir:

COMES NOW, Florida Energy Consultants, Inc. ("FEC"), by and through the undersigned, (hereinafter "Petitioners"), and hereby file a request for specific action by the U.S. Nuclear Regulatory Commission ("NRC") within a reasonable time directed towards the Arizona Public Service Company ("Licensee") and operator of the Palo Verde Nuclear Generating Station located near Phoenix, Arizona ("Palo Verde").

Specific Request:

1. Petitioners request that the NRC institute a show cause proceeding pursuant to 10 C.F.R. 2.202 to modify, suspend, or revoke the licensee's permissive NRC operational licenses authorizing the operation of the 3 reactor cores at Palo Verde.
2. Petitioners request that the NRC issue a notice of violation against the licensee for engaging in the continued practice of employing The Atlantic Group ("TAG") as a labor contractor at Palo Verde.

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3. Petitioners request that the NRC investigate apparent material false statements made by William F. Conway, Executive Vice President, at the Palo Verde nuclear station during Mr. Conway's testimony at trial in ERA Case No. 92-ERA-30. In the interim, petitioners request that the NRC require the licensee to relieve Mr. Conway of all authority over operations of the Palo Verde nuclear station.
4. Petitioners request that the NRC investigate the licensee's statements made in a footnote at p.2 of an August 10, 1993 letter from Mr. William F. Conway to NRC Administrator, Mr. Bobby H. Faulkenberry regarding Mr. Saporito. The licensee stated, in part, that "...Mr. Saporito had provided materially false, inaccurate, and incomplete information as part of his application for unescorted access to Palo Verde and, therefore, that he lacks the requisite trustworthiness and reliability to be eligible for site access at Palo Verde...".
5. Petitioners request that the NRC investigate the circumstances surrounding the February, 1994, termination of licensee employee Joseph Straub, a former radiation protection technician at Palo Verde to determine if Mr. Straub's employment was illegally terminated by the licensee for Mr. Straub having engaged in "protected activity" during the course of his employment at Palo Verde.
6. Petitioners request that the NRC initiate a "chilling effect" letter to the licensee requesting the licensee to respond under affirmation regarding the circumstances of Mr. Straub's termination from Palo Verde and what measures, if any, were taken by the licensee to ensure that Mr. Straub's termination did not cause a "chilling effect" at Palo Verde.



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7. Petitioners request that the NRC issue a confirmatory order and/or initiate appropriate actions to cause the licensee to immediately conduct extensive eddy current testing on all steam generators at Palo Verde to ascertain the integrity of the steam generators' tubes and life expectancy.

Basis and Justification:

1. Petitioner's assert here that a show cause proceeding is warranted to permit the public to participate during such a proceeding in a manner to provide the NRC with new and relevant information related to the safety concerns alleged in this petition. Moreover, the safety concerns alleged in this petition are significant and bear directly on public health and safety.
2. Petitioners assert here that the NRC should issue a notice of violation to the licensee for continuing to employ TAG as a labor contractor at Palo Verde. Past practices by TAG have demonstrated that employees of TAG were retaliated against for having raised safety concerns while employed by TAG at Palo Verde. The NRC has authority under 10 CFR 50.7 and 10 CFR 2.202 to issue a notice of violation to obviate continued licensee conduct as described above.
3. Petitioners assert here that the NRC should investigate apparent material false statements made by William F. Conway during his testimony at trial in ERA Case 92-ERA-30. Specifically, Mr. Conway testified, in part relevant hereto, that:

"Q...What position did you hold at Florida Power & Light Company?"



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"A...My title was Senior Vice-President Nuclear...I believe I initiated employment in February, early February of 1988, and terminated in early May of 1989..." See transcripts at p.899.

"Q...Just so I understand, as well, you were in charge of both plants, where did you physically live?"

"A...I lived in Palm Beach Gardens, Florida..." See transcripts at p.908.

"Q...During your employment at Florida Power & Light, did you come to realize that the NRC had assembled an inspection team to investigate concerns at the Turkey Point Nuclear Plant?"

"A...My answer would have to be that the NRC routinely inspects all nuclear power plants..."

"Q...Yes, sir; but did there come a time during your employment -- let's just talk about the year 1989 -- that the NRC sent a special inspection team, which included one of the inspectors, a gentleman by the name of Oscar DiMiranda, and that inspection team was sent to Turkey Point on a special assignment to investigate concerns; do you recall that?"

"A...I don't recall that I am aware of a specific inspection team being there for the purpose that you defined..."

"Q...Do you recall the name Oscar DeMiranda?"



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"A...I'm aware of that name in Region 2, yes..."
See, transcripts at p.903-04.

"Q...Did there come a time that you became aware of a large gathering of news reports, maybe 20 different news organizations, at the front gate of Turkey Point Nuclear Plant when Mr. DiMiranda and the inspection team came to Turkey Point?"

"A...No, I don't..." See transcripts at p.905.

Petitioners assert here that Mr. Conway's testimony is not credible and therefore suspect. Enclosed herewith, along with copies of the relevant case transcripts, are copies of various news articles regarding Mr. Saporito, FPL, NRC, and Turkey Point.

Exhibit 1, is a copy of the News Leader published on March 14, 1989. This news article clearly describes an NRC inspection team arriving to investigate Mr. Saporito's safety concerns about operations at the FPL, Turkey Point nuclear station. Indeed, Mr. Saporito's picture along with various new reporters in the background at the front entrance to the Turkey Point facility is shown on the front page of the article.

Exhibit 2, is a copy of the Palm Beach Post published on March 14, 1989. This news article clearly states that: "A team of federal inspectors arrived at the Turkey Point nuclear power plant Monday to review safety concerns raised by a Jupiter man who contends he was fired for "blowing the whistle" to the Nuclear Regulatory Commission."



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Exhibit 3, is a copy of the Miami Herald published on March 14, 1989. This news article clearly states that: "The U.S. Nuclear Regulatory Commission sent detectives to the Turkey Point nuclear power plant Monday to investigate safety complaints made by Thomas Saporito, an instrument technician the Florida Power and Light Co. fired last year on grounds he was insubordinate."

Exhibit 4, is a copy of the South Dade News Leader published on March 13, 1989. This news article clearly indicates that the NRC sent an inspection team to the FPL, Turkey Point nuclear station to investigate Saporito's safety concerns.

Exhibits 5-16, are copies of various other news articles published during Mr. Conway's employment period at FPL.

Exhibit 17, is a copy of the Palm Beach Post news article published on April 18, 1989 which indicates that Mr. Conway was scheduled to leave FPL on May 5, 1989 for his current position at Arizona Public Service Company.

Petitioners assert here that Mr. Conway's denial of knowledge that he was aware of a large gathering of news reporters at the front gate of Turkey Point when Mr. DeMiranda and the NRC inspection team arrived is not credible. Mr. Conway lived in Palm Beach Gardens, Florida during his employment at FPL.

Mr. Conway admitted that he read various media articles routinely. Moreover, FPL documents and circulates news articles related to FPL and the industry to its managers, like Mr. Conway, for review. Therefore, Mr. Conway's testimony regarding his personal knowledge about the NRC's inspection team arrival at Turkey Point is inconsistent with the record and material evidence provided herewith. Indeed, these various news articles were published during Mr. Conway's employment period at FPL. Thus, it is reasonable to conclude that Mr. Conway was well aware of the information contained in the news articles.



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"Q...From the time period September through December of 1991 -- let's retract that...Make that the time period of August through September of 1991, did you have any conversations with Mr. Levine regarding Mr. Saporito?"

"A...Yes, I recall now having a -- I believe a telephone conversation with him -- I couldn't tell you precisely when, but it was in that time frame...He had indicated that he had become aware of the fact that Mr. Saporito was working at Unit 2 as an I&C technician during a refueling outage, had indicated that he had become aware that you had previously been at Florida Power & Light, he knew of course that I had worked at Florida Power & Light and wanted to know if I knew who you were..."

"Q...In that conversation did you discuss that Mr. Saporito was fired from Florida Power & Light?"

"A...Possibly so..."

"Q...Do you recall how Mr. Levine found out about Mr. Saporito?"

"A...I'm not absolutely certain how he found out, unless he read the same kinds of periodicals that I read...In the general sense, I am reflecting on the answer I gave you to one of your previous questions about me reading periodicals and becoming aware of your activities..."



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"Q...You testified that you had a conversation with Mr. Levine on or about August or September of 1991, something about Saporito; is that correct?"

"A...Well, I'm not -- yes, it may have been. I'm uncertain as to the precise date, but I believe he had to have been there at the time...I believe he contacted me on the phone and indicated that Mr. Saporito was an employee for the outage, did I believe that he was the same Mr. Saporito that had been an employee of Florida Power & Light..."

"Q...And you testified you don't know how he learned about Saporito being there; is that correct?"

"A...I'm uncertain precisely how he was made aware of that..."

"Q...Did you have any subsequent conversations with Mr. Levine concerning Mr. Saporito?"

"A...I don't believe so. I believe that was it..."
See transcripts p.927-29 and 943-44.

Petitioners assert here that Mr. Conway's testimony is not credible regarding the information exchange between Mr. Conway and Mr. Levine regarding Mr. Saporito. It is reasonable to conclude that Mr. Levine's knowledge about Mr. Saporito's past activities at FPL came from Mr. Conway during the above mentioned telephone conversation or subsequent thereto.



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Mr. Conway's testimony that no other conversations between himself and Mr. Levine took place regarding Mr. Saporito subsequent to the August/September, 1991 telephone call is simply unbelievable. Indeed, the licensee was engaged in ERA litigation with at least 2 other licensee employees during this very same time period. These matters were extremely visible in the media and around the Palo Verde station. The licensee even issued letters to each employee about treatment of employees who raise safety concerns. Therefore, it can be reasonably concluded that Mr. Conway and Mr. Levine were very much sensitized about Mr. Saporito's arrival at Palo Verde. Thus, it is a reasonable conclusion that Mr. Conway and Mr. Levine did, in fact, have subsequent conversations and possibly meetings, regarding the treatment of Mr. Saporito. In this light, Mr. Conway's testimony is suspect and not credible.

4. Petitioners assert here that the NRC should investigate the licensee's statements about Mr. Saporito made in a footnote at page 2 of an August 10, 1993 letter from Mr. Conway to the NRC. The licensee's comments regarding Mr. Saporito are in the negative, are inaccurate and materially false and characterize Mr. Saporito as a person lacking the requisite trustworthiness and reliability for site access to Palo Verde. See copy of exhibit 18 attached hereto.

These negative characterizations are untrue and are of the nature that they have effectively "blacklisted" Mr. Saporito from continued employment in the nuclear industry. Thus, the licensee continues to engage in illegal conduct against Mr. Saporito in retaliation for his having raised safety concerns about operations at Palo Verde. The licensee's conduct as described above is illegal under 42 USC 5851 and under NRC regulations at 10 CFR 50.7 and serves to enhance an existing "chilling effect" at Palo Verde which discourages other employees from identifying safety concerns to the NRC.



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It is therefore paramount that the NRC require the licensee to publicly and officially on the record rescind the negative comments regarding Mr. Saporito as described in the licensee's August 10, 1993 letter to the NRC.

5. Petitioners assert here that the NRC should investigate the circumstances surrounding the February, 1994, termination of licensee employee Joseph Straub to determine if Mr. Straub's employment was illegally terminated by the licensee as a direct or indirect result of Mr. Straub having raised safety concerns about operations at Palo Verde. The NRC has authority under 10 CFR 50.7 to conduct such an investigation especially when the licensee has previously engaged in similar illegal conduct in the past. See, Sarah Thomas v. APS, Linda E. Mitchell v. APS, and Thomas J. Saporito, Jr. v. APS et. al.

Moreover, the licensee has admitted to such illegal conduct concerning Thomas J. Saporito, Jr. and has paid fines levied by the NRC regarding the Thomas and Mitchell cases. Employees like Mr. Straub are afforded NRC protection under 10 CFR 50.7 for having engaged in protected activity. The NRC's actions in conducting an investigation into Mr. Straub's termination is important to the overall workforce at Palo Verde which petitioners believe have been "chilled" from raising safety concerns to the NRC because of Mr. Straub's illegal termination.

6. Petitioners assert here that the NRC should require the licensee to respond to a chilling effect letter describing and explaining in detail under affirmation, the circumstances surrounding Mr. Straub's termination. Furthermore, the NRC should reaffirm the licensee's response to any chilling effect letter issued by the NRC.



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The NRC should require the licensee to reinstate Mr. Straub with pay and benefits pending the NRC's investigation into his termination to offset any chilling effect his termination had on the Palo Verde workforce.

7. Petitioners assert here that the NRC should issue a confirmatory order and/or initiate appropriate actions to cause the licensee to immediately conduct extensive eddy current testing on all steam generators at Palo Verde to ascertain the integrity of the steam generators' tubes and life expectancy.

The licensee's steam generators have recently been subjected to cracks in the free span portion of their internal construction. According to former NRC safety engineer, Mr. Robert Pollard, "...We've had tubes crack in the free span before, but nothing to the extent that we see at Palo Verde...If you have multiple tube ruptures in multiple steam generators, or if you have simply a large number of tubes leaking at a rate greater than the amount of leakage caused by a ruptured tube, then your risk is that the emergency cooling systems will be unable to prevent the melting of the fuel...In the worse case, you could wind up with a direct release path from the reactor core to the environment outside the reactor building..."

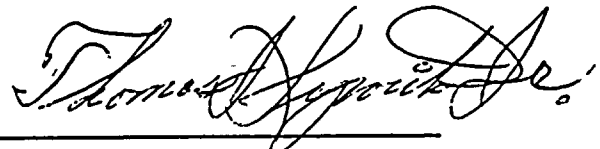
The licensee's problems with stress corrosion and cracking in the steam generators is a recurring problem which the licensee is well aware of and has failed to properly address. Along these same lines is the recurring problems that the licensee has with its cooling towers at Palo Verde. The NRC should be concerned about the licensee's failure to properly maintain safety systems and equipment at Palo Verde.



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In consideration of the above, the licensee cannot demonstrate to the NRC reasonable assurance for the continued safe operation of the Palo Verde Nuclear Generating Station. Accordingly, it is appropriate for the NRC to consider this Petition under 10 C.F.R. Part 2.206 wherein the petitioners have set forth the facts that constitute the basis for the request. See, Philadelphia Electric Company (Limerick Generating Station, Units 1&2), DD 85-11, 22NRC149, 154 (1985).

For the Environment,



Thomas J. Saporito, Jr.
President and CEO

cc: Hon. Joseph Lieberman
United States Senate
Washington, D.C. 20500

Hon. John Dingell
United States Congress
Washington, D.C. 20500

Administrator
U.S. Nuclear Regulatory Commission
1450 Marie Lane
Walnut Creek, CA 94596

Oscar DeMiranda, SACR II
U.S. Nuclear Regulatory Commission
101 Marietta St., N.W., Suite 2900
Atlanta, GA 30323



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Executive Director
National Whistleblower Center
517 Florida Ave., N.W.
Washington, D.C. 20001

Linda E. Mitchell, Director
National Whistleblower Center
Post Office Box 1234
Buckeye, AZ 85326





1 UNITED STATES DEPARTMENT OF LABOR
2 Offices of Administrative Law Judges

3 In the Matter of,
4 THOMAS J. SAPORITO, JR.,
5 Complainant,
6 versus
7 ARIZONA PUBLIC SERVICE COMPANY,
8 and
9 THE ATLANTIC GROUP,
10 Respondents.

)
) VOLUME V
)
) OALJ CASE No.
) 92-ERA-30
)
)
)
)
)

11 United States Tax Court
12 522 North Central Avenue
13 Room 235
14 Phoenix, Arizona

15 Friday,
16 October 2, 1992

17 The hearing in the above-entitled matter was
18 convened, pursuant to Recess, at 8:40 a.m.

19 BEFORE:

20 HON. MICHAEL LESNIAK
21 Administrative Law Judge

22 APPEARANCES:

23 For the Complainant:

24 THOMAS J. SAPORITO, In pro se
25 13517 West Glendale
Number 2031
Glendale, Arizona 85307



1 APPEARANCES: (cont'd.)

2 For the Respondent, Arizona Public Service
3 Company:4 GEORGE H. LYONS, ESQ.
5 STEVE THORNTON, ESQ.
6 Snell and Wilmer
7 One Arizona Center
8 Phoenix, Arizona 85004-00019 For the Respondent, The Atlantic Group:10 WILLIAM W. NEXSEN, ESQ.
11 Stackhouse, Rowe and Smith
12 1600 First Virginia Tower
13 555 Main Street
14 Norfolk, Virginia 23510
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I N D E X

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RE CROSS</u>	<u>JUDGE</u>
<u>WITNESSES</u>					
William Conway	890	946	952	961	
David Larson		984 985			965
James Levine	988	1027	1029		
Jan Gillard	1035				
<u>EXHIBITS</u>					
			<u>FOR IDENTIFICATION</u>		<u>IN EVIDENCE</u>
<u>ALJ:</u>					
ALJ-5			967		984
ALJ-6			981		984
<u>Respondent, APS':</u>					
APS-9			894		943
APS-10			894		943
APS-11			912		949
APS-12			912		952
<u>Complainant's:</u>					
CX-35			931		Withdrawn
CX-36			933		Withdrawn
CX-37			934		Withdrawn
CX-38			938		Withdrawn
CX-35			994		995
CX-36			1001		1050
CX-37			1049		1054



1 for me, please?

2 MR. SAPORITO: Yes, sir.

3 BY MR. SAPORITO:

4 Q I believe you were deposed the latter part of
5 September -- September 18th, I think -- between that time
6 period and now have you reviewed any Court transcripts or
7 documents related to the case you are testifying in today
8 prior to coming here to Court?

9 A I don't believe so.

10 Q Prior to your employment with the Arizona
11 Public Service Company in a position of Executive Vice-
12 President of Nuclear, will you tell me who your employer
13 was?

14 A Yes. I was employed by the Florida Power &
15 Light Company.

16 Q What position did you hold at Florida Power &
17 Light Company?

18 A My title was Senior Vice-President Nuclear.

19 Q Can you tell me the start and finish dates of
20 your employment for Florida Power & Light, month and year?

21 A I believe I initiated employment in February,
22 early February of 1988, and terminated in early May of
23 1989.

24 Q Do you recall in your position there that
25 Florida Power & Light Company had two nuclear stations, the



1 unusual, when the NRC arrives, they may be looking at
2 allegations, but it would not be fair to ask a witness if
3 he knew who those allegations were filed by because the NRC
4 does not publicize that information.

5 So I would object as to form.

6 JUDGE LESNIAK: If that's what it is, then
7 that's what the witness will testify to.

8 The objection is overruled.

9 BY MR. SAPORITO:

10 Q Mr. Conway, can you answer that question?

11 A Repeat it for me, please.

12 Q Sure. During the period of your employment
13 at Florida Power & Light Company, did there come a time you
14 realized the NRC had sent an inspection team down to Turkey
15 Point to investigate the concerns Mr. Saporito had raised
16 with Turkey Point?

17 A No.

18 Q During your employment at Florida Power &
19 Light, did you come to realize that the NRC had assembled
20 an inspection team to investigate concerns at the Turkey
21 Point Nuclear Plant?

22 A My answer would have to be that the NRC
23 routinely inspects all nuclear power plants.

24 Q Yes, sir; but did there come a time during
25 your employment -- let's just talk about the year 1989 --



1 that the NRC sent a special inspection team, which included
2 one of the inspectors, a gentleman by the name of Oscar
3 DiMiranda, and that inspection team was sent to Turkey
4 Point on a special assignment to investigate concerns; do
5 you recall that?

6 A Could you recall for me the dates that the
7 inspection team was there for that purpose?

8 Q Approximately the spring of 1989.

9 A Would it have been beyond May of 1989?

10 Q It could have.

11 A I don't recall that at the point in time that
12 I was employed at that organization.

13 Q You didn't leave until May --

14 A Correct, May 1st.

15 Q Prior to that did you become aware of this
16 inspection team at Turkey Point?

17 A I don't recall that I am aware of a specific
18 inspection team being there for the purpose that you
19 defined.

20 Q Do you recall the name Oscar DiMiranda?

21 A I'm aware of that name in Region 2, yes.

22 Q Are you aware that Mr. Oscar DiMiranda is an
23 NRC inspector at Region 2?

24 A That's what I just said, yes.

25 Q Did there come a time that you became aware



1 of a large gathering of news reports, maybe 20 different
2 news organizations, at the front gate of Turkey Point
3 Nuclear Plant when Mr. DiMiranda and the inspection team
4 came to Turkey Point?

5 A No, I don't.

6 Q Do you remember in 1989 seeing any news
7 broadcasts or reading in a newspaper four or five different
8 newspapers, about Turkey Point being inspected by the NRC?

9 A I recall an inspection that took place, I
10 believe in the April time frame, with respect to operator
11 training.

12 Q Do you recall reading a news article or
13 seeing a news broadcast or hearing a news broadcast on
14 radio mentioned or related to Mr. Saporito and the Turkey
15 Point Nuclear Plant?

16 A Yes, I do.

17 Q Could you tell me which ones you remember and
18 what you recall.

19 A I remember a radio broadcast, I believe it
20 was on a West Palm Beach radio station, wherein I believe
21 you were interviewed relative to Turkey Point.

22 Q Do you recall what the gist of the interview
23 was about?

24 A I believe the gist was identifying your
25 concerns relative to that facility.



1 Q Do you recall seeing Mr. Saporito on Cable
2 News Network television?

3 A No.

4 JUDGE LESNIAK: I want to make sure I
5 understand. You were interviewed two or three times by
6 Channel 4 about --

7 THE WITNESS: Well, I don't recall which
8 particular channel it was. I think I was also interviewed
9 by a newspaper.

10 JUDGE LESNIAK: Is this about Mr. Saporito or
11 about other things?

12 THE WITNESS: No, to my knowledge, I don't
13 ever recall being interviewed about Mr. Saporito.

14 JUDGE LESNIAK: All right. Just so I
15 understand, as well, you were in charge of both plants,
16 where did you physically live?

17 THE WITNESS: I lived in Palm Beach Gardens,
18 Florida.

19 JUDGE LESNIAK: Right in the middle?

20 THE WITNESS: Yeah, just north of West Palm
21 Beach.

22 JUDGE LESNIAK: All right. Thank you.

23 BY MR. SAPORITO:

24 Q Mr. Conway, do you recall early on when you
25 first hired on at Florida Power & Light, that you took a



1 BY MR. SAPORITO:

2 Q From the time period September through
3 December of 1991 -- let's retract that.

4 Make that the time period of August through
5 September of 1991, did you have any conversations with
6 Mr. Levine regarding Mr. Saporito?

7 A Yes, I recall now having a -- I believe a
8 telephone conversation with him -- I couldn't tell you
9 precisely when, but it was in that time frame.

10 Q Can you tell me the substance of that
11 conversation?

12 A Yes. He had indicated that he had become
13 aware of the fact that Mr. Saporito was working at Unit 2
14 as an I&C technician during a refueling outage, had
15 indicated that he had become aware that you had previously
16 been at Florida Power & Light, he knew of course that I had
17 worked at Florida Power & Light and wanted to know if I
18 knew who you were.

19 Q What did you tell him?

20 A I told him I was aware of Mr. Saporito's
21 employment at Florida Power & Light.

22 Q In that conversation did you discuss that
23 Mr. Saporito was fired from Florida Power & Light?

24 A Possibly so.

25 Q Did you discuss the fact that Mr. Saporito



1 may have been a whistle blower at Turkey Point?

2 A No, I don't believe so.

3 Q Did Mr. Levine ask you the reason
4 Mr. Saporito would have been fired from Turkey Point?

5 A I don't recall. If he did, I would have
6 indicated for insubordination.

7 Q Did you give any direction to Mr. Levine
8 regarding the conversation you had about Mr. Saporito?

9 A Yes, I firmly believe that I indicated that
10 Mr. Saporito should be treated as anyone else is treated.

11 Q Other than that, did you say, "Mr. Levine,
12 based on our discussion, I want you to do this or I want
13 you to do that?"

14 A No.

15 Q During the time period of September 1991
16 through December of 1991, did you become aware or learn
17 that Mr. Levine actually in fact contacted Mr. Simko?

18 A No.

19 Q Did you become aware or learn during the time
20 period September through December of 1991 that Mr. Simko
21 was aware that Mr. Saporito had been employed at Florida
22 Power & Light?

23 A I don't believe so, no.

24 Q Did you have any conversations with the plant
25 manager, Mr. Flood, regarding Mr. Saporito?



1 A I don't recall any conversations with Flood
2 relative to Mr. Saporito.

3 Q Do you recall any conversations from
4 Mr. Grove and yourself, between you and Mr. Grove,
5 concerning Mr. Saporito?

6 A No.

7 Q Do you recall how Mr. Levine found out about
8 Mr. Saporito?

9 A I'm not absolutely certain how he found out,
10 unless he read the same kinds of periodicals that I read.

11 Q So you are aware that there was periodicals -
12 - was there a periodical or news clipping or something
13 you're referring to during that time period that he may
14 have seen at Palo Verde?

15 A In the general sense, I am reflecting on the
16 answer I gave you to one of your previous questions about
17 me reading periodicals and becoming aware of your
18 activities.

19 Q And based on that statement, am I to
20 understand that at one time Mr. Levine may have read an
21 article or news clipping connected with Mr. Saporito and
22 Turkey Point and that would have been impressed on his
23 memory, that he would identify that to my name, back in
24 1991?

25 MR. NEXSEN: Your Honor, if I might object at



1 JUDGE LESNIAK: And we'll eliminate them,
2 those exhibits. We can use those numbers in the future.

3 Now, there are two exhibits -- there's APS 9
4 and 10. Do you want to admit those?

5 MR. SAPORITO: Yeah, I'd like to admit them
6 just for the fact to clarify the organization structure.

7 MR. LYONS: No objection, Your Honor.

8 MR. NEXSEN: No objection, Your Honor, I
9 thought they were already in.

10 JUDGE LESNIAK: No, they were identified.
11 APS 9 and 10 are admitted, I'll take them.

12 (The documents previously
13 marked for identification as
14 APS Exhibits 9 and 10 were
15 received in evidence.)

16 JUDGE LESNIAK: Let me ask Mr. Conway a
17 question or two.

18 You testified that you had a conversation
19 with Mr. Levine on or about August or September of 1991,
20 something about Saporito; is that correct?

21 THE WITNESS: It was, I think -- well, it
22 certainly was after Mr. Saporito had come to Palo Verde.

23 JUDGE LESNIAK: Physically he was there?

24 THE WITNESS: I'm certain of that, yes..

25 JUDGE LESNIAK: All right. So are you



1 thinking now that the date was closer to September of 1991?

2 THE WITNESS: Well, I'm not -- yes, it may
3 have been. I'm uncertain as to the precise date, but I
4 believe he had to have been there at the time.

5 JUDGE LESNIAK: Okay. Now, who initiated the
6 conversation, Mr. Levine or yourself?

7 THE WITNESS: I believe he contacted me on
8 the phone and indicated that Mr. Saporito was an employee
9 for the outage, did I believe that he was the same
10 Mr. Saporito that had been an employee of Florida Power &
11 Light.

12 JUDGE LESNIAK: And you testified you don't
13 know how he learned about Saporito being there; is that
14 correct?

15 THE WITNESS: I'm uncertain precisely how he
16 was made aware of that.

17 JUDGE LESNIAK: Did you have any subsequent
18 conversations with Mr. Levine concerning Mr. Saporito?

19 THE WITNESS: I don't believe so. I believe
20 that was it.

21 JUDGE LESNIAK: You testified that you wanted
22 Mr. Levine to treat Saporito like anyone else.

23 THE WITNESS: That's correct.

24 JUDGE LESNIAK: Which is what? How is anyone
25 else treated; what did you mean by that?



EXHIBIT #1



News Leader

Serving readers from Kendall to Florida City

Tuesday, March 14, 1989 — 25¢



STAFF PHOTO BY WAYNE FLEISHER

Thomas Saporito, right, meets with media at Turkey Point.

NRC team arrives at Turkey Point

By LINDA JENNINGS
Staff Writer

Television cameras and reporters crowded around Thomas Saporito as he stood outside the gate area to the Turkey Point Nuclear Power Plant Monday afternoon welcoming an eight-man inspection team from the Nuclear Regulatory Commission.

"I believe that within 30 days after the completion of this inspection of the plant by the NRC that Florida Power and Light Co. will be ordered to shut down (nuclear) units 3 and 4 for a minimum of 90 days while they assess the problems they are going to find," Saporito repeated over and over again as various media arrived on the scene.

An expert eight-man team of NRC inspectors entered Turkey Point to look into some 135 allegations of safety problems made by Saporito.

"This is not an investigation," said

NRC spokesman in Atlanta Ken Clark. "This is an inspection of the company's handling of allegations of problems at Turkey Point and their implementation of an employee concern's program."

Clark said a report will be available to the public upon conclusion of the inspection, but it could take as long as 30 days before that report is finalized. He did not know how long the inspection would take.

The NRC inspection team entering the plant Monday would not comment on the inspection.

Saporito, fired from the Turkey Point Nuclear Plant in December where he worked as an instrument control specialist on the nuclear side of the plant, was outside the plant Monday to focus attention on the NRC inspection.

"They are going to find poor equipment, poor maintenance, poor training, violations of safety procedures,

falsification of plant documentation and destruction of safety records," Saporito said.

The NRC team will also talk to workers about the "chilling effect," Saporito said. He claims many workers at Turkey Point know of the safety problems but are afraid to come forward for fear of reprisals.

Saporito worked at Turkey Point on-and-off for the past three years and for six months continuously before he was fired in December. He was responsible for the repair, maintenance and calibration of the two reactors' instrumentation and equipment, he said. Saporito also worked at FPL's St. Lucie plant for four years prior to that.

Saporito believes he was fired from Turkey Point for informing the NRC about safety problems at the plant. FPL said he was fired for

See NRC, 8A



bridge in baseball — 1B

News Leader

Serving readers from Kendall to Florida City

Tuesday, March 14, 1989 — 25¢

Saporito: NRC will find Turkey Point violations

NRC, from 1A

decision and a ruling is expected in April.

insubordination and work-related causes.

A Department of Labor judge ruled Saporito was indeed fired without cause and ordered he be reinstated. FPL, however, appealed that

Saporito has filed a series of three petitions with the NRC asking that FPL's nuclear license be revoked and that Turkey Point be shut down immediately because of unsafe conditions.



EXHIBIT #2



Nuclear plant undergoes inspection

Whistleblower's claims checked

By MICHAEL LASALANDRA
Palm Beach Post Staff Writer

MIAMI — A team of federal inspectors arrived at the Turkey Point nuclear power plant Monday to review safety concerns raised by a Jupiter man who contends he was fired for "blowing the whistle" to the Nuclear Regulatory Commission.

The eight-man team will review how Florida Power & Light Co. is handling the allegations by Thomas Saporito and how the utility is running a program aimed at making it easier for employees to voice safety concerns, NRC spokesman Ken Clark said.

Clark said it is unusual for the NRC to send such a large team to make such a review, but he noted that Saporito has made a large number of allegations. They mostly involve what he called corner-cutting in maintenance procedures and falsification of documents to cover up when shortcuts were taken.

Clark said the commission staff "has not seen any reason to shut the plant down" as a result of Saporito's allegations.

"We were aware of a large majority of the concerns when we received them, but we haven't made any decisions or resolutions," he said. "That's why the team of inspectors is there."

In addition to reviewing documents and interviewing plant employees about Saporito's allegations, Clark said the team will talk with FPL personnel to make sure workers are encouraged to bring concerns to plant



Whistleblower Thomas Saporito expects Turkey Point's 2 reactors to be shut down. managers.

Saporito, who said he was planning to give inspectors more information Monday, was fired by FPL Dec. 22 after he went to the NRC with his concerns. He contends he was fired because he "blew the whistle." A U.S. Labor Department investigator agreed, ruling that he should get his job back, along with \$100,000 in damages.

FPL appealed. A decision by a federal hearing officer is pending.

Saporito said his firing had a "chilling effect" on other employees, preventing them from coming forward with safety concerns.

He said Monday he expects the plant will be forced to shut down its two nuclear reactors for at least 90 days following the inspection team's report. One of the units is down now for repairs.

The team will remain at the plant for three days, FPL spokesman Dale Thomas said. He said NRC inspectors failed to find anything requiring a shut-down of the plant after Saporito first made his allegations. "Nothing needed immediate attention," he said.



EXHIBIT #3



IN BRIEF

SOUTH DADE

Turkey Point to probe complaints

The U.S. Nuclear Regulatory Commission sent detectives to the Turkey Point nuclear power plant Monday to investigate safety complaints made by Thomas Saporito, an instrument technician the Florida Power and Light Co. fired last year on grounds he was insubordinate.

The agency also is reviewing a new system FPL established to encourage employees to report safety problems without fear of being denounced as troublemakers, a spokesman said.

After he was fired, Saporito complained to the U.S. Labor Department that the real reasons were his complaints that FPL disregarded safety violations and destroyed documents about them. The Labor Department ordered FPL to reinstate him and pay his lost wages plus \$100,000.

FPL is appealing that decision, a labor-management matter not concerned with the accuracy of Saporito's safety complaints. The NRC is dealing with those, spokesman Ken Clark said Monday.



EXHIBIT #4



South Dade News Leader

NRC begins FPL plant inspection

By LINDA JENNINGS
Staff Writer

A fired Turkey Point Nuclear Power Plant worker will be standing vigil outside the plant today as a Nuclear Regulatory Commission inspection team enters the facility to investigate his allegations of safety problems.

Thomas J. Saporito, 35, who was fired from the Florida Power and Light Co. plant in December, claims he was fired because he blew the whistle to the NRC about safety concerns which include the destruction of safety records and shoddy maintenance.

The NRC inspection team will begin their review of Saporito's allegations today and will also take a close look at a new FPL program designed to give power company workers a documented system for anonymously reporting safety concerns.

One source said the inspection team will also talk to other plant workers in an effort to document Saporito's allegations about problems at the plant.

NRC spokesman in Atlanta Ken Clark told the *South Dade News Leader* last week that the inspection team's main function is to check the new safety pro-

gram. He said the team, however, would also look at safety concerns raised by Saporito to be sure the NRC is aware of all at issue.

Saporito considers this a "white-wash" and insists the team is going into the plant to investigate the problem areas he has documented in countless papers filed with the NRC.

"The main reason they assembled the team — and it's an expert inspection team pulled from all areas of the country — is to address the 135 safety concerns I gave to the NRC," Saporito said this morning.

"You don't assemble an expert nine-10 member task force to address the implementation of an employee program," Saporito said. Gordon Edison NRC spokes-

man in Washington, said the team "will be looking at some of the Saporito concerns. Some of the people are looking at some of the things brought up by him, but I don't know if that's the whole purpose of the inspection. I really can't tell you anymore than that."

On the NRC inspection team is Oscar DeMiranda of the enforcement and investigation coordination staff in Atlanta, Edison said. DeMiranda is

called a "big fish" by Saporito and anti-nuclear activists.

Saporito said the NRC's inspection of FPL's new safety program is the secondary reason for the team being assembled. Saporito said DeMiranda indicated to him that he would personally check this program to insure employees can identify safety concerns without identifying themselves.



EXHIBIT #5



th Dade News Leader

254

4 Sections

Serving readers from Kendall to Florida City

Wednesday, March 8, 1989 — 25¢

NRC to inspect Turkey Point program

By LINDA JENNINGS
Staff Writer

The Nuclear Regulatory Commission will inspect the Turkey Point Nuclear Power Plant next week, taking a close look at a new program designed to give workers a system for reporting safety concerns.

"Because it is a new program, we want to be sure we understand it and understand how it works," said Ken Clark, NRC spokesman in Atlanta. "We want to assure ourselves that it's

an effective mechanism for employees to bring concerns about safety to the attention of plant management."

Florida Power and Light Co. implemented the new "Employee Concerns Reporting System" in early January to give employees a written administrative procedure from which to "express concerns about programs, policies, procedures or the actions of other individuals to plant supervisors and plant management," said FPL spokesman Dale Thomas.

"This is a broad-in-scope, umbrella-

type program that supplements other programs already in place," Thomas said. "This is just one more avenue for identifying and resolving employee concerns."

Thomas said the program is available for all FPL employees and contract workers and was not designed just for nuclear workers, though the NRC inspection team is interested in it only from a nuclear standpoint.

Thomas said the program grew out of a quality control conference held last summer. But, he said, there have

been informational signs posted at the plant since it opened telling employees how to express their safety concerns.

Clark said all nuclear plants are required to post information in highly visible locations telling employees exactly how to air safety concerns.

"We encourage the utility to discuss safety concerns with employees without giving the employee a fear of reprisal," he said.

The five-man NRC inspection team

See FPL, 6A

FPL program lets workers air concerns

FPL, from 1A

will begin their review of the program Monday, Clark said. The team will also look at concerns raised to be sure the NRC is aware of all at issue.

The NRC does not inspect every new program initiated at nuclear facilities, but is doing so at Turkey Point "because of a number of concerns raised recently and allegations that safety concerns are not being

want to be satisfied that this program provides the necessary means of communication within the company."

Thomas J. Saporito, 35, who was fired from Turkey Point in December but ordered reinstated by the courts on an appeal, claims safety concerns raised by him prompted the inspection, though that allegation was denied by both the NRC and FPL.

Saporito claims safety problems at Turkey Point

umentation to FPL and the NRC, are not being addressed:

Saporito said he was fired because he blew the whistle on 90 claims of alleged safety violations, coverups and shoddy maintenance, but FPL said he was fired for insubordination and work-related causes. FPL has appealed Saporito's ordered rehiring. A Department of Labor judge is expected to rule on the appeal in April.

This week, Saporito filed his third

suspend and revoke Turkey Point's operating license.

Saporito also sent a letter to Soviet Chairman Mikhail Gorbachev, saying that "all efforts by your government in securing the safe shut down of the Turkey Point Nuclear Reactors would promote worldwide 'Good Will' and concern for the health and safety of everyone."

The News Leader



EXHIBIT #6



South Miami News

One of Miami's 14 Community Newspapers • Published every Monday, Wednesday, and Friday • Wednesday, March 1, 1984

Hearing to decide if 'Whistle Blower' at Turkey Point will get back his job

By MARY ANNE SHARBAUGH

The Turkey Point worker who blew the whistle on the plant's alleged safety violations is waiting to hear if he can have his job back. Thomas Saporito, Jr., an instrument control specialist, was fired for what FPL called

Was fired for "acts of insubordination"

"acts of insubordination." Although the Labor Department gave him back his job, FPL appealed the decision. Hearings on

the appeal ended February 14, and a ruling is expected within the next two months. Judge Anthony J. Iacobo is presiding

over the case.

In a letter to FPL, Robert Chauvi district director for the Labor Department ordered the company to reinstate Saporito with \$100,000 in compensatory damages. The same correspondence also instructed FPL to post copies of the letter in "spacious places" around the plant.

Saporito views the legal proceedings as a victory, regardless of the final outcome. He believes his case has affected FPL "to the degree that managerial changes have been initiated at Turkey Point." Saporito, who worked for seven years as a FPL specialist, said other employees at the plant voluntarily came forward during the hearing and testified, under oath, of reprisals taken on them by management because the workers had voiced safety concerns.

But FPL Spokesperson Dale Thomas said Saporito was fired for insubordination because of a series of conflicts with his supervisors. The worker was disciplined for sick leave abuse, according to Thomas. Thomas claims Saporito was asked to see the company's doctor due to sick leave he had taken but the worker refused.

"A safety-minded and responsibly managed utility would voluntarily shut itself down to access where it is at and to correct the problem, and to effectively implement corrective measures to permanently resolve the magnitude of problems," according to Saporito.

The instrument panel specialist said his major concern is the overall poor conduct of maintenance at the plant "extending to the lack of proper employee training, lack of proper supervisory training, the consistently high turnover rate of employees, the poor plant equipment, the consistent violation of plant procedures." He says FPL is guilty of planning very poor job workpackages, which instruct workers on what to do on certain pieces of machinery and detail the exact procedure for fixing machinery and parts in the plant.

Saporito claims he provided NRC inspectors from Region 2 with a legal deposition on Jan. 12 in which he testified concerning the destruction and falsification of safety-related plant documentation at both Turkey Point and St. Lucie plants.

Fines levied by the Nuclear Regulatory Commission (NRC) for violations of NRC safety regulations at Turkey Point have now surpassed the million dollar mark. Early this month, the NRC recommended a fine be levied against FPL for \$100,000 for improperly positioning a security guard so that he could not adequately monitor access to buildings on Turkey Point premises.

A 1981 NRC report on pressurized thermal shock lists Turkey Point Units 3 and 4 as having the second and third most brittle reactor pressure vessel welds in the entire country. Embrittled welds are susceptible to cracking in an accident which might require emergency cooling water be pumped into the reactor core, according to information released by the Center for Nuclear Responsibilities.



EXHIBIT #7



IN BRIEF

Ex-FPL worker writes Gorbachev

A former Florida Power & Light technician who is fighting the company over being fired last year has written Soviet leader Mikhail Gorbachev asking that the Soviet government take unspecified "immediate actions" to shut down FPL's Turkey Point nuclear reactors.

After working at Turkey Point for about six months last year, Thomas J. Saporito Jr. of Jupiter was fired on grounds of insubordination for refusal to see a company doctor.

Saporito, in turn, claims he was fired for whistle-blowing about safety problems at the plant. Since last fall, he has filed a series of regulatory challenges attempting — so far unsuccessfully — to persuade the Nuclear Regulatory Commission to shut down Turkey Point.

In a letter mailed Monday to Gorbachev, Saporito compared Turkey Point to the Chernobyl disaster. He wrote that an accident here could create a "life-threatening radioactive cloud that has the potential to affect human life even in your country."

Saporito said Tuesday that he wrote Gorbachev because of "a lack of immediate response by the NRC to take what I believe to be appropriate action."

On Tuesday, the NRC said that Saporito's complaints still are being investigated. Next month, a Department of Labor judge is expected to rule on whether FPL must rehire Saporito.



EXHIBIT #8



SOUTH DADE

Turkey Point firing goes to judge

A Department of Labor administrative law judge is expected to rule sometime in April on the case of Thomas Saporito, a former Florida Power and Light technician who claims he was fired for revealing safety problems at the Turkey Point nuclear plant.

Saporito, of Jupiter, worked at the plant about six months last year before he was fired on grounds of excessive absences and refusal to see a company doctor.

The Labor Department on Tuesday ended seven days of testimony on Saporito's appeal, based in part on his argument that he should be protected under the federal Whistleblower's Act.

Last month, Saporito called a well-attended press conference to announce he had asked the Nuclear Regulatory Commission to keep the plant from operating because of a variety of safety concerns.

But just as the Labor hearing got under way, the NRC rejected Saporito's petition.

"Your concerns have not identified any new information ... which we were not already aware of," wrote Thomas Murley, the NRC's director of reactor regulation.



EXHIBIT #9



Testimony ends in FPL whistleblower appeal

By MICHAEL LASALANDRA
Palm Beach Post Staff Writer

MIAMI — Testimony concluded Tuesday in the case of a Jupiter man who claimed he was fired from his job at the Turkey Point nuclear power plant for "blowing the whistle" to federal investigators about alleged safety violations at the facility.

U.S. Labor Department Administrative Law Judge Anthony Jacobo took the matter under advisement following seven days of testimony in the appeal by Florida Power & Light Co. of an earlier Labor Department ruling that ordered Thomas Saporito, 35, be reinstated with back pay and \$100,000 in compensatory damages.

A ruling is not expected for several weeks.

FPL had claimed Saporito abused his sick leave and had problems with supervisors and co-workers since 1984 when he worked at the St. Lucie plant. He was discharged in December for "insubordination."

Co-workers testified Tuesday that Saporito, who had been working with the Nuclear Regulatory Commission to investigate alleged violations of maintenance procedures, had been marked as a "troublemaker" by company officials even before he started working at Turkey Point. Worker Coleman McDonald said Saporito's supervisor, Jerry Harley, had taken a memo given to him by Saporito about safety concerns and "wadded it up and threw it in the trash."



EXHIBIT #10



LOCAL NEWS

Probe: FPL broke law on whistleblower

By MICHAEL LASALANDRA
Palm Beach Post Miami Bureau

MIAMI — A Jupiter man fired from his job at the Turkey Point nuclear power plant should be reinstated to his job with back pay and \$100,000 in compensatory damages, U.S. Department of Labor officials said Tuesday.

The officials said a Department of Labor investigation determined that the firing of Thomas Saporito by Florida Power & Light Co. violated the federal Whistleblower Act.

Both sides will be presented in a hearing on the firing before a Labor Department administrative hearing officer Feb. 1.

"We expect to be vindicated," said FPL spokesman Dale Thomas.

Saporito, 35, who was fired by FPL on Dec. 22, had filed suit with the Department of Labor claiming he was fired because he "blew the whistle" to federal investigators about safety violations at the power plant in southern Dade County. FPL says he was fired for "insubordination."

Department of Labor District Director Robert Chauvin said Tuesday the investigation found that the utility discriminated against Saporito because "the alleged acts of

Firing violated whistleblower act, federal labor officials say

FPL/from 1B

forced from his activities that are protected by the whistleblower law.

At a news conference Tuesday, Saporito said he hopes the case will serve to "preclude the chilling effect" his firing has had on other employees who might want to complain to the federal Nuclear Regulatory Commission or other agencies.

He said he also hopes it will help to prevent FPL from bringing Turkey Point reactor No. 3 back on line next week as planned. It has been shut down for retooling since October, according to an FPL spokesman.

Reactor No. 4, the plant's other nuclear reactor, has been down since September, but is scheduled to resume operation in March.

"That plant is an accident waiting to happen," Saporito said. He urged citizens to write to Sen. John Glenn, D-Ohio, asking for an investigation into whether Turkey Point's license to operate the two reactors should be revoked.

The NRC regional office is investigating allegations made by Sa-

porito before his firing, but Saporito said action against a license can only be taken in Washington. He said Glenn, as chairman of the Senate's Governmental Affairs Committee, could play a role.

Saporito, an instrument control specialist, said he was ordered several times by supervisors to skip steps in maintenance procedures at Turkey Point and said documents were falsified to cover up when shortcuts were taken.

Saporito had worked at FPL's St. Lucie nuclear plant on Hutchinson Island for five years before transferring to Turkey Point in May. He said he asked for a transfer back to St. Lucie within a few weeks of starting at Turkey Point but was passed over because he had raised questions about safety procedures at the Dade County plant.

Saporito's lawyer, Trente Steele, said Saporito was later offered a return to St. Lucie "on the condition that he shut up." He said Saporito would not agree to the deal.

FPL spokesman Thomas would neither confirm nor deny that such a deal was offered.



EXHIBIT #11

REC'D
danta
1998



Former FPL worker may get job back

By LINDA JENNINGS
Staff Writer

An employee recently fired from Florida Power and Light Co.'s Turkey Point Nuclear Power Plant has been ordered reinstated by a federal investigator, according to sources.

Thomas J. Saporito, who had worked for FPL at its St. Lucie Power Plant and then at Turkey Point as an instrument control specialist, was fired from the plant Dec. 22 for insubordination, according to FPL spokesman Dale Thomas.

Saporito, 35, filed intimidation and harassment charges against FPL with the Department of Labor in the fall of last year, before he was fired. The investigator ruled there was no proof of Saporito's allegations.

Saporito then filed a second round of intimidation and harassment charges against FPL and sources say this time the DOL investigator has ruled in Saporito's favor and is ordering his reinstatement.

The decision was expected to be announced in a morning press conference held by Saporito in Miami. Thomas could not comment on the ruling since FPL had received no formal documentation as to the outcome as of press time.

A judge will hear all sides of the case, including the DOL investigator's ruling, during a hearing in Miami scheduled for the first of February.

In the morning press conference, Saporito also outlined alleged safety violations at Turkey Point and claims to have proof. He has filed numerous allegations of safety concerns with the NRC.

The NRC is investigating the charges, said

See JOB, 8A

FPL may reinstate former employe

JOB, from 1A

Ken Clark, an NRC spokesman.

Saporito believes he was fired from Turkey Point because he blew the whistle on safety violations at the plant. He sent several documents to the NRC on Dec. 21 which he claims outline safety violations at the plant. He was fired the next day.

In addition to being reinstated in his position, Saporito is demanding the NRC delay restart of the nuclear units at Turkey Point until his allegations can be fully investigated.

As a matter of policy, the NRC does not discuss the names of individuals or groups who make such allegations, but Saporito went public himself, said Clark.

"We have received numerous allegations of concerns at the Turkey Point plant which poten-

tially could affect safety," Clark said. "We have received a number of allegations — most of which we were already aware of . . .

"We have received a request from Mr Saporito to delay the restart of the Turkey Point units until the safety concerns have been addressed. We have not formally replied, but at this point in time, we do not have cause to prevent the restart of the units as presently scheduled," Clark said.

"That does not mean we are dismissing the charges," he said. "We were aware of 80 percent of the (safety concerns). We are still in the process of looking into the allegations."

Unit 3 was taken off line the middle of October for unscheduled repairs and is scheduled for restart the middle of this month. Unit 4 was taken off line for scheduled refueling and is due back on line in March.



EXHIBIT #12



Halt urged in start-up of reactor

'Whistleblower' sues over loss of his job

The Associated Press

A Turkey Point nuclear plant employee who says he was fired for blowing the whistle on safety violations wants the start-up of one of the plant's reactors delayed until after a federal investigation.

Thomas Saporito, 35, was fired on Thursday by Florida Power & Light Co. from his job as an instrument control specialist at the south Dade County plant.

Saporito has filed suit with the U.S. Department of Labor Department under the Whistleblower Act, claiming FPL fired him because he is cooperating with a federal Nuclear Regulatory Commission investigation of alleged procedural violations at the plant.

The NRC and environmental groups have consistently listed the frequently fined Turkey Point plant as among the nation's 10 worst commercial reactors.

Saporito said on Friday from his home in Jupiter that he wants FPL to postpone the start-up of the Unit 3 reactor — currently shut down until next week for retooling — because he claims the plant continues to be plagued by poor performance.

"We don't need to jeopardize the health and safety of the public over megawatts," he said. "Let's wait until the investigation is concluded."

Saporito, who was hired in March 1982, worked five years at FPL's St. Lucie Nuclear Plant on Hutchinson Island before transferring to Turkey Point.

"I have no problem with nuclear energy, but it has to be from a safe, reliable energy source," Saporito said.

"You can't just wing it with poor procedures, with poor equipment, with poor training and with overall poor conduct of maintenance. Turkey Point is consistently a very poor performer."

FPL spokesman Stacey Shaw said Saporito was fired for "work-related practices," not because he complained to the Nuclear Regula-

"His dispute with us came about originally because he filed a grievance about a supervisor of his," Shaw said. "Throughout our review of his complaint, the Nuclear Regulatory Commission was aware of what was going on."

Shaw would not specify what the dispute was between Saporito and his bosses. The labor lawsuit will be heard by Administrative Law Judge E. Earl Thomas on Jan. 5 in Miami.

"There was a Department of Labor review at his request," Shaw said. "None of his allegations were substantiated by us or anyone else."

Shaw said the Turkey Point plant is safe. "I'm not personally aware of any safety complaints," she said.

A spokesman for the NRC in Rockville, Md., confirmed on Friday that the agency is looking into Saporito's allegations.

"Several weeks ago he [Saporito] sent the folks in Atlanta a large package detailing a number of concerns at the Turkey Point plant. Most of them are in the area of maintenance," said Frank Ingram, an NRC spokesman.

"Those concerns are being sorted out and categorized, and are being, or will be, looked at by the appropriate elements within the NRC organization," according to Ingram, who said Turkey Point remains on the NRC's list of stations that "need close regulatory attention."

Turkey Point has a history of problems with the federal regulatory commission, NRC records show.

An Oct. 7, 1985, NRC inspection report concluded that the plant was plagued by high turnover, poor management, poor maintenance and lack of experience on the part of employees. A follow-up report in September 1988 found the plant still had failed to make the necessary improvements.

"There remains a significant number of plant equipment problems that have not been repaired through the corrective maintenance program or are overdue for preventive maintenance," the report stated.

"Performance hasn't been what we think it ought to be," Ingram said. "It deserves more regulatory scrutiny than the average plant."



EXHIBIT #13



Fired worker: Halt nuclear

JUPITER — (AP) — A Turkey Point nuclear plant employee who says he was fired for blowing the whistle on safety violations wants the startup of one of the plant's reactors delayed until after a federal investigation.

Thomas Saporito, 35, was fired on Thursday by Florida Power & Light Co. from his job as an instrument control specialist at the south Dade County plant.

Saporito has filed suit with the U.S. Department of Labor under the Whistleblower Act, claiming FPL fired him because he is cooperating with a federal Nuclear Regulatory Commission probe into alleged proce-

dural violations at the plant.

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FPL spokesman Stacey Shaw said Saporito was fired for "work-related practices,"

reactor's start

not because he complained to the Nuclear Regulatory Commission.

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his allegations were substantiated by us or anyone else."

Shaw said the Turkey Point plant is safe. "I'm not personally aware of any safety complaints," she said.

A spokesman for the NRC in Rockville, Md., confirmed Friday that the agency is looking into Saporito's allegations.

"Several weeks ago he [Saporito] sent the folks in Atlanta a large package detailing a number of concerns at the Turkey Point plant. Most of them are in the area of maintenance," said Frank Ingram, an NRC spokesman.



EXHIBIT #14



FPL worker: 'Whistleblowing' led to firing

By CAROL MARBIN
Palm Beach Post Staff Writer

JUPITER — Florida Power & Light Co. has fired a Turkey Point nuclear power station technician who claims he was dismissed because he "blew the whistle" to federal investigators about safety violations at the south Dade County plant.

Thomas Saporito, 35, of Jupiter was fired Thursday from his job as an instrument control specialist. He has filed suit with the U.S. Department of Labor Department under the Whistleblower Act, claiming FPL fired him because he is cooperating with a federal Nuclear Regulatory Commission probe into alleged procedural violations at the plant.

"I have no problem with nuclear energy, but

it has to be from a safe, reliable energy source," Saporito said Friday. "You can't just wing it with poor procedures, with poor equipment, with poor training and with overall poor conduct of maintenance. Turkey Point is consistently a very poor performer."

Saporito, who was hired in March 1982, worked five years at FPL's St. Lucie Nuclear Plant on Hutchinson Island before transferring to Turkey Point.

Stacey Shaw, a spokesman for FPL, said Saporito was fired for "work-related practices," not because he complained to the Nuclear Regulatory Commission.

"His dispute with us came about originally because he filed a grievance about a supervisor of his," Shaw said. "Throughout our review of

his complaint the Nuclear Regulatory Commission was aware of what was going on.

Shaw would not specify what the dispute between Saporito and his bosses.

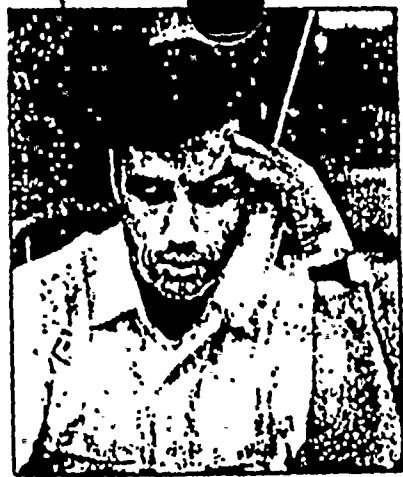
"There was a Department of Labor re- at his request," Shaw said. "None of his al- tions were substantiated by us or anyone e

Shaw said the Turkey Point plant is "I'm not personally aware of any safety complaints," she said.

Saporito's labor lawsuit will be heard by Administrative Law Judge E. Earl T. Jan. 5 in Miami.

A spokesman for the NRC in Rockville, confirmed Friday that the agency is lookin-

Please see FF



JOHN DUNHAM/Staff Photographer

Thomas Saporito talks to the governor's office about safety problems at Turkey Point.

FPL worker: 'Whistleblowing' led to firing

FPL/from 1B

Saporito's allegations.

"Several weeks ago he (Saporito) sent the folks in Atlanta a large package detailing a number of concerns at the Turkey Point plant. Most of them are in the area of maintenance," said Frank Ingram, an NRC spokesman. "Those concerns are being sorted out and categorized, and are being, or will be, looked at by the appropriate elements within the NRC organization."

Saporito also has asked the NRC to prevent FPL from bringing the Turkey Point Unit 3 reactor on line until the agency has completed its investigation. The reactor, which has been shut down for re-tooling, is scheduled to go on line

next week.

Turkey Point has a history of problems with the federal regulatory commission, NRC records show.

An Oct. 7, 1985, NRC inspection report concluded the plant was plagued by high turnover, poor management, poor maintenance and lack of experience on the part of employees.

"The Turkey Point facility has demonstrated past weaknesses in the areas of plant operation, maintenance and quality assurance programs," the report stated.

Despite attempts to correct the problems, the report stated, "the inspection team noted that performance ... has not markedly improved."

A September 1988 NRC report

concluded the plant still had failed to make the necessary improvements.

"There remains a significant number of plant equipment problems that have not been repaired through the corrective maintenance program or are overdue for preventive maintenance," the report stated.

Ingram said the Turkey Point plant remains on the NRC's list of station's that "need close regulatory attention."

"Performance (at Turkey Point) hasn't been what we think it ought to be," Ingram said. "It deserves more regulatory scrutiny than the average plant."

Saporito wants FPL to postpone the startup of the Unit 3 reactor because he claims the plant continues to be plagued by poor perfor-

"We don't need to jeopardize the health and safety of the public over megawatts," he said. "Let's wait until the investigation is concluded."



EXHIBIT #15



The Palm Beach Post

RSDAY, MARCH 30, 1989

Inadequate training shuts Miami reactor

Post Staff and Wire Reports

MIAMI — A Turkey Point reactor was shut down Wednesday after federal regulators found that half of the troubled commercial plant's licensed operators had failed a requalification exam given earlier this month.

Florida Power & Light Co. took Unit 3 — the only reactor currently in operation at Turkey Point — down to hot shutdown after Nuclear Regulatory Commission officials informed them of the high failure rate, said agency spokesman Ken Clark.

FPL spokesman Stacey Shaw said the action was voluntary, but Clark noted the utility had little choice. "I don't think we would have been satisfied with anything less," the NRC spokesman said.

Thomas Saporito, a "whistleblower" who last year told federal investigators there were safety problems at Turkey Point, including a poor level of training, called Wednesday's closing "long overdue."

"I feel that the Nuclear Regulatory Commission

Please see REACTOR/8A

NRC lists Turkey Point reactor among nation's 10 worst plants

REACTOR/from 1A

should have taken a more responsible enforcement action long before this," said Saporito, once a technician at the plant.

FPL fired Saporito in December, saying the dismissal stemmed from Saporito's "work-related practices." Saporito said he was let go because he cooperated with a federal probe into the plant.

Saporito said he learned of the shutdown from former co-workers, still at the plant.

"Everyone's just glad that there wasn't really an accident that happened because of the poor training," he said Wednesday night.

Clark said that in testing during the weeks of March 13 and 20, at least three of six crews and 11 of 24 operators failed all or parts of the exams.

Shaw said most of those who failed were no longer actually operating the reactors. She said the utility hoped to requalify them within seven days and start up the plant again.

Saporito called that an "irresponsible position" for FPL to take.

But the problem was severe enough for the NRC to demand that the utility present a permanent solution in May, Clark said.

Shaw said Unit 3 had been slated for shutdown later in the week for routine maintenance. Unit 4, the other nuclear generator, is in the final stages of refueling.

The news came only a day after FPL took reporters on a tour of the plant aimed at showing on the anniversary of Three Mile Island that problem-plagued Turkey Point had turned the corner.

"We don't deny that we're one of their problem plants. Our procedures and our training have not kept up with the increasing complexity of the industry."

MARK CRISLER, FPL spokesman

The NRC has hit Turkey Point with about \$1 million in fines over the past five years for safety and security violations, identifying the plant as one of the nation's 10 worst. Ralph Nader's Public Citizen environmental group has also called it one of the worst-managed commercial facilities.

"We don't deny that we're one of their problem plants," conceded FPL spokesman Mark Crisler. "Our procedures and our training have not kept up with the increasing complexity of the industry."

The NRC also confirmed Wednesday it has cited FPL in the wake of the criticism by Dade emergency management officials.

County Manager Joaquin Avino wrote an angry letter after a leak Jan. 7, demanding an investigation because Turkey Point officials failed to call local emergency staff for several days.

"The NRC cited FPL because they did not notify state and local officials in a timely manner when the event occurred," Clark said. "But there was in fact a threat to public health and safety."

The flap over the notification to Dade County has been smoothed over, utility spokesman Allan Thomas said. More broadly, FPL officials say, a management shakeup last year mandated by the NRC is turning the plant around.



EXHIBIT #16



LOCAL NEWS

FPL whistleblower's pride, expenses grow

By STEPHEN POUNDS
Palm Beach Post Staff Writer

JUPITER — Thomas Saporito rattles off safety procedures for nuclear power plants like a troubleshooter.

But officials at Florida Power & Light Co.'s Turkey Point nuclear power plant in Homestead have cast him as a troublemaker. During U.S. Labor Department hearings in February, they accused him of insubordination and abusing sick-leave policies. They fired him three days before Christmas and don't want him back.

Saporito, who was a nuclear instrument control specialist, says he was fired because he blew the whistle on FPL mismanagement at Turkey Point. He's fighting his dismissal. "I have to. What else can I do? What other utility is going to hire me after this?" he said Friday.

After a visit prompted in part by Saporito's complaints, Nuclear Regulatory Commission

'I have to (sue). What else can I do? What other utility is going to hire me after this?'

THOMAS SAPORITO

officials last week ordered a Turkey Point reactor shut down after 11 of 24 licensed operators failed requalification exams.

Saporito, 35, has been complaining about lack of training at FPL since last year.

He is a stickler for training. Saporito said he used to read updated training manuals during his lunch hour at the St. Lucie nuclear plant before he transferred to Turkey Point last April. "It was operator error that caused the meltdown at Three Mile Island. It was operator error that caused the explosion at Chernobyl," he says.

Despite last week's events, Saporito's struggle is not complete. A father of three, Saporito used to bring home more than \$50,000 a year in salary and overtime. Now he pores over 200 FPL reports, hearing depositions and file regulations to assist his attorney and defray legal expenses.

He has racked up \$15,000 to \$20,000 in legal fees taking his fight through Labor Department channels. A judge ordered FPL to reimburse Saporito, and give him back pay and \$100,000 in damages. But FPL has appealed.

Saporito wants his job back, though it may take a year or more before FPL exhausts its appeals. In the meantime, his wife's salary as a part-time nurse helps. And he contemplates seeking a second mortgage and selling his car.

"I'm almost to the point of selling that 1967 Firebird," Saporito said, pointing to a 1967 Firebird. "Th--"

Please see WHISTLEBLOWER...



Thomas Saporito was fired from his job at Turkey Point three days before Christmas.

first year they made them." His shiny black 1988 Firebird is already up for sale. "I can't afford to make the payments."

Saporito submitted a lengthy list of complaints and alleged safety abuses by FPL to the Nuclear Regulatory Commission in September. Soon after, he was accused of abusing sick leave and other company policies. He was threatened by supervisors and given demeaning jobs, he says.

He remembers a day in October when a red-faced FPL supervisor screamed at him as he followed Saporito into a restroom. "I had to

get into a stall to get away from him," Saporito says.

Winning his case won't mean an easy street for Saporito. He'd have to return to work for a company that doesn't want him. But losing would be devastating. "I've got a wife and three children, and I don't have money coming in," he said.

Conversation doesn't veer far before he returns quickly to Turkey Point. He worries about a great many things — fellow FPL employees, the safety of Dade County's 2 million residents, the effectiveness of the NRC and son Andy's grades.

But he doesn't regret his role as a whistleblower: "I'm proud of what I did."



EXHIBIT #17



FPL nuclear chief to go to Arizona

By ELISA WILLIAMS
Palm Beach Post Staff Writer

The head of Florida Power & Light Co.'s troubled nuclear operations is resigning to take a position at an Arizona utility to manage the largest nuclear plant in the nation.

The resignation comes three weeks after a reactor at FPL's Turkey Point plant was shut down because 11 of 24 operators failed recertification tests and the unit had to undergo repairs. The U.S. Nuclear Regulatory Commission also began an investigation to evaluate the south Dade County plant's control room staff.

As of May 5, FPL Senior Vice President William F. Conway will leave Miami-based FPL to become executive vice president of nuclear operations for Arizona Public Service Co. of Phoenix, Ariz., which owns 29.1 percent of the Palo Verde nuclear power plant.

FPL spokesman Gary Mehalik said the company is not commenting on the reasons for Conway's departure.

C.O. Woody, executive vice president of the electric utility, will temporarily assume Conway's duties, assisted by Vice President Orin Pearson.

Wayne Kaplan, a spokesman for Arizona Public Service, said his company sought Conway to help improve operations at its nuclear facilities, which have received some unsatisfactory NRC ratings.

"We needed to get an individual with a lot of experience in running this kind of facility," he said.

FPL hired Conway from a post at the Institute of Nuclear Operations in Atlanta, a self-governing body for the nuclear power industry, to improve operations at Turkey Point.

Identified by the NRC as one of the nation's 10 worst nuclear power plants, Turkey Point has been assessed \$1 million in fines over the past five years for safety and security violations.

Turkey Point's two reactors have been deactivated often for repairs, testing or refueling since they began operation in 1973. However, none has been shut down because of questions on operators' performance.



William F. Conway.



EXHIBIT #18

100-100000



Arizona Public Service Company
P.O. BOX 13799 • PHOENIX, ARIZONA 85072-3799

WILLIAM F. CONWAY
EXECUTIVE VICE PRESIDENT
NUCLEAR

212-01034-WFC/RJS
August 10, 1993

Mr. Bobby H. Faulkenberry
Regional Administrator, Region V
U.S. Nuclear Regulatory Commission
1450 Maria Lane, Suite 210
Walnut Creek, CA 94596-5368

Reference: Motion for Reconsideration of Recommended Decision and Order
in Thomas J. Saporito, Jr. v. Arizona Public Service Company,
92-ERA-30 dated July 27, 1993

Dear Mr. Faulkenberry:

Subject: Palo Verde Nuclear Generating Station (PVNGS)
Units 1, 2 and 3
Docket Nos. STN 50-528/529/530
Notification Under 10 CFR 50.9
File: 93-056-026; 93-001-025.42

In a Recommended Decision and Order, dated May 10, 1993, the Administrative Law Judge (ALJ) found that Arizona Public Service Company (APS) denied Claimant a position as a temporary, contract instrumentation and control (I&C) technician at the Palo Verde Nuclear Generating Station in violation of Section 210 of the Energy Reorganization Act of 1974. The referenced motion, submitted on behalf of APS, requested reconsideration of the Recommended Decision and Order based upon two recent cases and the testimony of the APS supervisor who made the decision not to hire Mr. Saporito, Mr. Frank Warriner, who claimed that at the time of his decision he did not know that Mr. Saporito had engaged in protected activity. The motion also asked the ALJ to consider the misconduct of Mr. Saporito in this case and to find that it barred him from the remedy afforded by the statute.

On August 6, 1993, Mr. Warriner admitted to APS legal counsel that his testimony regarding his awareness of Mr. Saporito's past activities and the reasons for not selecting Mr. Saporito were untruthful. Mr. Warriner had previously stated that at the time of the employment decision, he had no knowledge that Mr. Saporito had raised safety concerns at either Palo Verde or other nuclear facilities. He indicated that the basis for the employment decision related to certain job requirements which Mr. Saporito did not fulfill.

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Mr. Warriner now indicates that he learned of Mr. Saporito's protected activity from the Unit 2 I&C Supervisor, and that this was the motivating reason for Mr. Warriner's decision not to select Mr. Saporito. Mr. Warriner went on to indicate that his misconduct was his sole decision and that no one at APS encouraged, pressured or ordered him not to select Mr. Saporito, or to provide false testimony. Although the Unit 2 I&C Supervisor has denied any role in any improper actions, both he and Mr. Warriner have had their site access suspended and have been placed on administrative leave.

This information was developed by APS as a result of a recent initiative directed by APS Corporate Counsel. In a related effort, APS had retained an individual to independently review the appropriateness of Mr. Warriner's conduct. The independent reviewer has been advised of this development since his efforts are near completion. APS has initiated an investigation to determine whether or not Mr. Warriner acted alone and will inform the NRC of the results of this investigation. ^y Appropriate notifications are being made to the Department of Labor and the parties in ongoing proceedings.

Regrettably, this development has occurred coincident with a decline in discrimination complaints at Palo Verde and at a time when APS has underway a series of initiatives to foster an atmosphere conducive to full and free expression of employee concerns. These initiatives will be outlined in more detail in our response to your July 9, 1993, letter currently planned to be submitted on August 20, 1993. In the interim, however, and in light of the specific circumstances of this case, the enclosed memorandum is being sent to every Palo Verde employee by Mr. Mark DeMichele, the Chief Executive Officer. This message underscores management's expectations as to how everyone at Palo Verde should respond to employees who raise safety concerns. This message will be reinforced at meetings, involving all Palo Verde employees, to be scheduled in the near future.

^y Notwithstanding the results of this investigation, or the facts which have thus far been established regarding Mr. Warriner's state of knowledge, APS had previously concluded that Mr. Saporito had provided materially false, inaccurate, and incomplete information as part of his application for unescorted access to Palo Verde and, therefore, that he lacks the requisite trustworthiness and reliability to be eligible for site access at Palo Verde.



Mr. Bobby H. Faulkenberry
Nuclear Regulatory Commission
Notification Under 10 CFR 50.9
Page 3

Finally, we are prepared to brief the NRC on the status of these matters next week; I will call you to determine your desire and availability for such a meeting. Should you have any questions, please call me or have your staff contact Ronald Stevens at 602/393-5800.

Sincerely,

W. F. Conway by lls
W. F. Conway

WFC/RJS/rw
Enclosure

cc: J. A. Sloan
Document Control Desk

12-1-77

