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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
EXECUTIVE DIRECTOR FOR OPERATIONS
MR. VICTOR STELLO, JR.

Ref EDC 415-9
Murley
Scott
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SECY

16 JUL 1989

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In the Matter of *
*
Florida Power and Light Company *
*
Turkey Point Nuclear Station, *
Units 3 and 4 *
*
* * * * *

Docket Nos.: 50-250
50-251

10 CFR 2.206

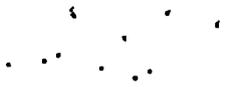
ANSWER TO PARTIAL DIRECTOR'S DECISION UNDER 10 CFR 2.206

INTRODUCTION

On December 21, 1988, Thomas J. Saporito, Jr, herein referred to as Petitioner, submitted a request pursuant to 10 CFR 2.206 to Mr. Victor Stello, Jr., Executive Director of Operations with the Nuclear Regulatory Commission (NRC) for certain and specific actions relevant to operations at the Turkey Point Nuclear Station. Subsequent requests pursuant to 10 CFR 2.206 and germane to operations at the Turkey Point Nuclear Station were submitted on January 13, 1989, January 30, 1989, February 7, 1989, March 1, 1989, March 22, 1989, April 25, 1989, April 26, 1989, June 20, 1989, June 22, 1989, July 3, 1989, and July 7, 1989.

On January 12, 1989, Mr. Lawrence J. Chandler, Assistant General Counsel for Enforcement with the NRC Office of the General Counsel, submitted a memorandum to Mr. Thomas E. Murley, Director, NRC Office of Nuclear Reactor Regulation of which the subject matter was Thomas J. Saporito, Jr. 2.206 Petition Regarding Turkey Point Nuclear Station. In his memorandum, Mr. Chandler elaborates on the December 21, 1988 petition outlining the Specific Requests and Basis and Justification. Finally, Mr. Chandler makes mention of certain Department of Labor actions wherein Petitioner had involvement with the Florida Power and Light Company (FPL).

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On January 30, 1989, Mr. Thomas E. Murley, Director, Office of Nuclear Reactor Regulation, sent Petitioner a letter acknowledging receipt of petitions filed on December 21, 1988 and January 13, 1989. Also enclosed with the aforementioned letter, was a RECEIPT OF PETITION FOR DIRECTOR'S DECISION UNDER 10 CFR 2.206 dated January 30, 1989, wherein Mr. James H. Sniezek, Deputy Director, Office of Nuclear Reactor Regulation, issued a preliminary review which did not indicate any immediate necessity to keep the Turkey Point Plant Units 3 and 4 reactors shut down. The basis for this position is that the Petitioner's concerns do not identify any new information which is not already being addressed by the licensee and the staff, or which we were not already aware of.

On March 6, 1989, Mr. Thomas E. Murley, Director, Office of Nuclear Reactor Regulation, sent Petitioner a letter acknowledging receipt of Petitioner's requests submitted pursuant to 10 CFR 2.206 on January 30, 1989 and February 7, 1989. The letter also stated that Petitioner's 10 CFR 2.206 request of December 21, 1988 was being supplemented by 10 CFR 2.206 requests made on January 13, 1989, January 30, 1989, and February 7, 1989. A preliminary review of the concerns in supplements 2 and 3 does not indicate any immediate need to suspend and revoke the operating licenses of the Turkey Point Plant. Our basis for this finding is that your supplements have not identified any significant new information beyond that already acknowledged by our letter to you dated January 30, 1989.

On April 14, 1989, Mr. Thomas E. Murley, Director, Office of Nuclear Reactor Regulation, sent Petitioner a letter acknowledging receipt of Petitioner's request submitted pursuant to 10 CFR 2.206 on March 1, 1989, and two letters dated March 2, 1989, and a letter dated March 6, 1989, and finally a 10 CFR 2.206 request dated March 22, 1989. Mr. Murley states: Because none of the above letters addresses new concerns (beyond those in your letters of December 21, 1988, and January 13, 19, 30 (two letters), and February 7, 1989), or provides information we did not already have, no additional NRC action is necessary.

BACKGROUND

The Florida Power and Light Company (FPL, the licensee), is the holder of Facility Operating License Nos. DPR-31 and DPR-41 (the licenses) which authorize the operation of the Turkey Point Nuclear Plant Units 3 and 4 at steady state power levels not in excess of 2200 megawatts thermal (rated power). The licenses were originally issued on July 19, 1972 for Unit 3, and April 10, 1973 for Unit 4. The facility consists of two pressurized water reactors located at the licensee's site in Dade County, Florida.

Based on voluminous NRC inspection documentation and the enforcement history at the Turkey Point Plant, Petitioner has concluded that FPL has not maintained effective management controls in the operation of its facilities. As a result of problems identified during 1984, FPL established the Turkey Point Performance Enhancement Program to improve the operation of its facility and to correct the deficiencies identified. A Confirmatory Order was issued by the NRC on July 13, 1984 to confirm the implementation of this corrective action program.

An October 1985 NRC Report identified problems at Turkey Point to consist of...High Employee Turnover, Poor Management, Poor Maintenance, and a lack of experienced employees.

A year later in 1986, because of the NRC's concerns regarding the adequacy of the Performance Enhancement Program due to the extent of the problems identified at the Turkey Point facilities, FPL presented information to the NRC on January 8, 1986 describing management actions taken and planned to correct deficiencies identified during the NRC Safety System Functional Inspection and the NRC Region II follow-up inspections. A comprehensive program was then developed to assess the operability of other safety systems. A description of this program was presented to the NRC in a management meeting on February 26, 1986. The details of this program were described in FPL Letter L-86-112 and its enclosures dated March 19, 1986 and FPL Letter L-86-197 dated May 19, 1986.

In view of the extent of the deficiencies identified in the NRC inspection activities and the enforcement history at the Turkey Point Plant, the NRC determined that the public health, safety and interest require issuance of a Confirmatory Order dated August 12, 1986 superseding the Confirmatory Order of July 13, 1984 since it confirms the implementation of the Turkey Point Performance Enhancement Program including the Phase II Assessment Program. The NRC stated that this Order is necessary to ensure that the facility is in compliance with regulatory requirements and to bring the facility into conformance with written commitments by the licensee.

In 1986 the NRC fined Turkey Point \$400,000 in penalties for operation of the facility in violation of NRC requirements. Security violations attributed to \$25,000 of the \$400,000 in fines. The NRC identified a major problem with the reactor operator training program as indicated by the excessive failure rate of operators to pass NRC licensing tests. The NRC placed Turkey Point on its list of problem plants requiring special monitoring.

In March 1987, a cono-seal leak on top of one Turkey Point reactor allowed boric acid to deteriorate three reactor head retaining studs and created a 550 pound ball of boric acid on top of the reactor. FPL was aware of the leak early on, but failed to take prompt corrective measures and allowed the plant to operate. In September 1987, a girl friend of reactor operator manipulated the controls of a reactor on-line at near full power. Four licensed operators stood by and did not intervene and the event was not immediately reported to FPL upper management. The NRC issued a Confirmatory Order on October 19, 1987 ordering an independent management appraisal of Turkey Point. The NRC fined Turkey Point \$475,000 in 1987 of which \$150,000 was for security violations.

In 1988, twenty-two emergency operation speakers were found stuffed with rags, a problem which the NRC had previously identified in the past. In August 1988, three thousand three hundred gallons of radioactive water spilled and much of this radioactive water was absorbed by the environment. A September 1988 NRC Report states...There remains a significant number of plant equipment problems that have not been repaired...(the plant) needs close regulatory attention. The NRC fined Turkey Point \$150,000 for security violations in 1988.

A NRC Systematic Assessment of Licensee Performance (SALP) Report issued in September 1988 evidenced the overall poor performance of the Turkey Point facility. The NRC rated the plant areas of operations, maintenance, and security/safeguards as a Category 3 which is the lowest possible rating achievable short of a shut-down. The Turkey Point plant has consistently failed to improve performance over the years as evidenced by previous Category 3 SALP ratings by the NRC and the recognition by the NRC as one of the ten worst plants in the United States.

During the latter part of November and early December 1988, a NRC special maintenance inspection team visited Turkey Point. The findings of the NRC team indicate that performance at Turkey Point has not significantly improved.

During the beginning of 1989, numerous equipment problems prevented FPL from starting either of the two reactors at Turkey Point.

In January 1989, FPL failed to timely notify state and federal authorities of a radioactive water leak in reactor primary water system which resulted in an ALERT condition.

In March 1989, FPL again failed to timely notify state and federal authorities of a radioactive water leak in reactor primary water system which resulted in an ALERT condition.

At the end of March 1989, eleven of twenty-four reactor operators failed a NRC license requalification exam.

During April 1989, leaky pipes on the reactor's seal table were identified and subsequently, a worker initiated a cut on the wrong pipe during repairs to the seal table.

In June 1989, the FBI arrested a Turkey Point worker on drug charges and indicated other individuals may be indicted at Turkey Point.

Contrary to NRC concerns of management stability and concerns identified by the Independent Management Appraisal conducted by Enercon Services which identified management stability as a problem, FPL continues to have management stability problems.

In 1987, FPL hired Bill Conway as the Senior Vice President for Nuclear Energy.

In 1988, FPL hired John Odom as the Turkey Point Site Vice President and Jim Cross replaced Chris Baker as the Turkey Point Plant Manager.

In 1989, Bill Conway resigned from FPL and is temporarily being replaced by C.O.Woody. The Turkey Point Site Vice President, John Odom, has been replaced by Ken Harris, the Turkey Point Maintenance Superintendent, Joe Kappes, has been replaced by John Gianfransisco, the Turkey Point Instrument Control Department Head, Dan Tomaszewski, has been replaced by Everett Hayes.

The Turkey Point Instrument Control Planning Supervisor was fired for drug related reasons and was replaced by Bruce Koran and now Koran has recently been replaced.

The Turkey Point Instrument Control Production Supervisor, Gerald Harley, has been replaced by John Burke and Vern Miller.

The NRC has already fined Turkey Point \$100,000 in 1989 for security violations.

DISCUSSION

The aforesaid voluminous NRC inspection documentation and the escalated civil penalties issued by the NRC in an attempt to deter continued operation of the Turkey Point facility outside compliance within NRC Requirements and Regulations, demonstrate the exemplary performance of the NRC Region II personnel.



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Although the licensee has sustained cumulative civil penalties of about 1.5 million dollars, the payment of monetary penalties has failed to demonstratively deter the licensee from operating the Turkey Point facilities outside of the Federal Regulations and NRC Requirements.

Although NRC personnel claim to closely scrutinize the Turkey Point facility, certain and specific events have occurred which appear to indicate the contrary.

The NRC Office of Nuclear Reactor Regulation as represented by Mr. Murley, appears to have acted outside of the NRC Regulations wherein evidence would show that:

(1) Mr. Murley did not act in the best interest for the health and safety of the public in his consideration of Petitioner's basis and justification for license action pursuant to 10 CFR 2.206 which demonstrates reasonable doubt for the safe operation of the Turkey Point facilities.

(2) Mr. Murley supplemented certain petitions and ignored others in his determination for the health and safety of the public.

(3) Mr. Murley appears to have abused his authority and acted not in compliance with NRC Regulations.

(4) Mr. Murley appears to have addressed only six of the twelve outstanding petitions related to the Turkey Point facility and therefore has prematurely reached a determination and conclusion without reviewing all of the facts and circumstances involved.

(5) Mr. Murley appears not to have considered the BIG PICTURE relating to the grave safety concerns at Turkey Point and the failure of plant management to demonstrate the ability to operate the Turkey Point facility in a safe and reliable manner consistent with NRC Requirements and Federal Regulations.

(6) Mr. Murley appears to have failed to realize, acknowledge, and properly address the severity and magnitude of the grave safety concerns related to the overall poor conduct of maintenance and operations at the Turkey Point facility.

(7) Mr. Murley appears to have acted improperly by not considering the overwhelming evidence of reasonable doubt established in the Petitioners aforesated requests to Mr. Victor Stello, Jr.

CONCLUSION

Petitioner states that the NRC must act decisively and without hesitation to shut down the Turkey Point facility until such time as the licensee can demonstrate the ability to operate the Turkey Point facility in a safe and reliable manner consistent with NRC Requirements. To do otherwise would place reasonable doubt for the health and safety of the public and would evidence a failure of the NRC to achieve its own mandate and mission as a regulator.

It is unrealistic for the NRC to believe that FPL can establish significant improvements at Turkey Point in the areas of training, operations, maintenance, security and safeguards, and the numerous other problem areas by December 1989. These significant problem areas have been the subject of NRC concern and attention for years.

Petitioner states that the NRC appears to have abused its authority in not taking appropriate license action as stated above and therefore may be in collusion with the licensee and thus jeopardizing the health and safety of the public in favor of economics and nuclear power generation. Petitioner's concern of collusion will be further addressed and delineated to the NRC Inspector General's Office for investigation and resolution.

Petitioner seeks address of all twelve 2.206 petitions submitted to Mr. Victor Stello, Jr., the Executive Director for Operations with the NRC.

Petitioner seeks a meeting with all five NRC Commissioners and representatives of the NRC Region II office to discuss the severity and magnitude of the grave safety issues germane to the Turkey Point facility and the extensive evidence of reasonable doubt embraced within the 2.206 petitions justifying the safe shut-down of Turkey Point.

Petitioner requests that this document be referred to the Secretary for the Commission's review and that a copy of this document be filed with the Office of the Federal Register for publication.

Dated at Jupiter, Florida
this 16th day of July 1989.

Sincerely,



Thomas J. Saporito, Jr.
1202 Sioux Street
Jupiter, Florida 33458
(407) 747-8873

cc: United States President George Bush
United States Senator John Breau
Mr. Mark Resner, NRC Inspector Generals Office
Mr. Kenneth Carr, Chairman Nuclear Regulatory Commission
Mr. Thomas E. Murley, Director, Nuclear Reactor Regulation
Mr. Steward Ebnetter, NRC Regional Administrator Region II
Mr. Oscar De Miranda, NRC RAC Region II
County Manager of Metropolitan Dade County
Florida Governor Bob Martinez
Ms. Joette Lorion, Dir. Center for Nuclear Responsibility
Ms. Billie Garde, Attorney at Law