

JUL 25 1989

MEMORANDUM FOR: Martin G. Malsch  
Acting Inspector General

FROM: Thomas E. Murley, Director  
Office of Nuclear Reactor Regulation

SUBJECT: PETITION FROM THOMAS J. SAPORITO, JR.

Enclosed for your information is a petition from  
Mr. Thomas J. Saporito, Jr., in which he makes statements concerning the  
staff's handling of his earlier 2.206 petitions regarding the Turkey Point  
Nuclear Station.

Original signed by  
Thomas E. Murley

Thomas E. Murley Director  
Office of Nuclear Reactor Regulation

Enclosure:  
2.206 Petition fm  
T. J. Saporito dtd 7/16/89

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

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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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PDR Acc# 8907260052

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.



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.

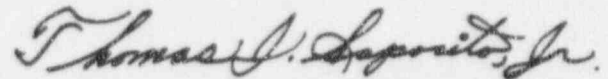
Petitioner seeks address of all twelve 2.206 petitions submitted to Mr. Victor Stello, Jr., the Executive Director for Operations with the NRC.

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 Breaux  
Mr. Mark Resner, NRC Inspector General's 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

6. H. Moore / J. H. L. / R. H. L. / Parler

Reply 8/14/89 8/26/89

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

8/27/89  
8/7/89

Rec'd 8/11  
AEE

In the Matter of

Florida Power & Light Company

Turkey Point Units 3 & 4

) Docket Nos. 50-250 OLA-4

) 50-251 OLA-4

) (Pressure/Temperature Limits)

8903581

INTERVENORS' FIRST SET OF DISCOVERY REQUESTS TO THE NRC STAFF

Intervenors, the Center for Nuclear Responsibility and Joette Lorion, hereby serves its First Set of Discovery Requests to the NRC Staff pursuant to 10 C.F.R. 2.740 (b) and 2.741. Most of the proposed discovery requests concern the NRC Staff's Safety Evaluation for the above captioned amendments.

- ENTC
1. Identify the facts, transactions and documents on which the NRC Staff relies in alleging on page 1 of the NRC Safety Evaluation that "It is estimated that TP3 will reach 10 EFPY early in 1989 and TP4 will reach 10 EFPY in mid-1989".
  2. Identify the facts, transactions and documents on which the NRC Staff relies in stating on page 1 of the Safety Evaluation that "P/T limits are among the limiting conditions of operation in the TS for nearly all, if not all, plants in the U.S."

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EMTB 3. State whether the weld wire heat number 71249 and Flux Lot 8445 identified on page 2 section 2 of the Safety Evaluation pertain to the surveillance capsules from both units 3 and 4.

EMTB 4. Identify the facts, transactions and documents on which the NRC Staff relies in contending that the 0.26% copper content is the correct and conservative copper content to use in calculating the RTNDT and setting the P/T limits for Units 3 and 4.

CE  
FSAR  
TS  
Core lathes,  
fuel, post-irradiation  
examination  
See IRRS  
EMTB 5. Identify the facts, transactions and documents on which the NRC Staff relies in contending on Page 6 of the Safety Evaluation that "the twin units 3 and 4 at Turkey Point are nearly identical in their design, construction, reactor vessel materials, operating procedures and neutron flux spectra".

EMTB 6. Identify the facts, transaction and documents on which the NRC Staff relies in contending on page 6 of the Safety Evaluation that the welds for Unit 4 test specimens were made with weld wire from the same heat of material but from a different flux lot than the girth welds in both reactor vessels.

EMTB 7. Identify the facts, transactions and documents on which the NRC Staff relies in contending on page 6 of the Safety Evaluation that "Although the Unit 4 surveillance weld specimens were fabricated using a different flux lot, the weld



specimens were considered to be representative of the girth welds in both reactor vessels because flux lot number is only of minor importance in determining the sensitivity to irradiation embrittlement".

EMTB  
may be  
relevant

8. Identify all the facts, transactions and documents on which the NRC Staff relies in contending on page 6 of the Safety Evaluation that "Based on the similarity between materials in the center girth welds and the materials used to fabricate the surveillance weld specimens, the test results from capsules in either Units 3 and 4 can be used to monitor the neutron embrittlement in both reactor vessels".

EMTB

9. Identify the facts, transactions and documents on which the NRC Staff relies in contending on page 7 of the Safety Evaluation that "the greater than expected embrittlement from one weld sample from Unit 4 does not demonstrate that the beltline material in Unit 4 is as embrittled as the sample".

EMTB  
relevant

10. Identify the facts, transactions and documents on which the NRC Staff relies in contending on page 7 of the Safety Evaluation that "the Unit 4 data point is within the uncertainty and scatter that can be expected from measurements of this type".

EMTB  
relevant  
P-5

11. Identify the facts, transactions and documents on which the NRC Staff relies in contending that the Turkey Point units no longer have the second and third highest PTS screening nil-ductility temperature for all plants as stated on page 8 of the SE.

ENTB 12. State whether the RTNDT value identified for Unit 4 in Table 1 of the Safety Evaluation was calculated based on an Charpy energy level of 30 ft-lb or a Charpy energy level of 42 ft-lb.

ENTB 13. State whether the copper content of 0.26% identified in table 2 under the Staff's calculation is the mean copper content for Unit 4 and explain whether or not the NRC Staff factored in a Standard Deviation when performing this calculation. If the answer is no, explain why not. (Refers to Safety Evaluation)

GE  
~~ENTB~~  
GE  
Partially  
Objectively  
If it has  
only 4 parts  
14. State whether or not the Licensee has provided documents to the NRC Staff as required by 10 C.F.R. Appendix H, Section II C, Parts 1-6 since 1985. If the answer is yes, identify all such documents provided to the NRC Staff.

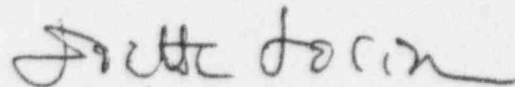
ENTB  
GE  
Object  
Irrelevant  
15. State the reason (s) that the NRC Staff allowed FPL to implement the Integrated Surveillance Program in 1985 despite the fact that actual weld metal tests for capsule T of Unit 4 did not agree with the original predictions for that Unit, in violation of the requirements of 10 CFR Appendix H, Section II C.

ENTB 16. Identify any and all historical documents that support the NRC Staff's claim that Unit 4's surveillance capsules T and v used a different welding flux lot number.

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Encl  
8/10/89  
17. Copies of Minutes of the April 7, 1977, meeting between the  
NRC Staff and FPL concerning FPL's use of Unit 3 weld metal  
surveillance data to predict radiation damage to Unit 4.

Respectfully submitted,



Joette Lorion  
Director, Center for Nuclear  
Responsibility

Dated: August 7, 1989

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
-	)	
FLORIDA POWER & LIGHT CO.	)	Docket Nos. 50-250 OLA
	)	50-251 OLA
Turkey Point Plant	)	
Units 3 and 4	)	(Pressure/Temperature Amendments)

CERTIFICATE OF SERVICE

I hereby certify that copies of "Intervenors' First Set of Discovery Requests to the NRC Staff" have been served on the following parties on August 7, 1989, by deposit in the United States Mail, first class, postage prepaid:

Dr. Paul Couter  
Atomic Safety & Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

John T. Butler  
Steel, Hector & Davis  
4000 SE Financial Center  
Miami, Florida 33131

Glenn O. Bright  
Atomic Safety & Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

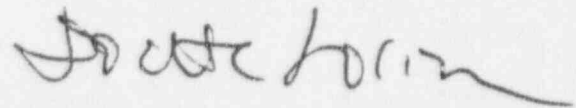
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U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Janice Moore  
Office of General Counsel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dated: August 7, 1989



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Joette Lorion  
Director, Center for  
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(305) 661-2165