



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

NRC

98-162

1

RESPONSE TYPE FINAL PARTIAL

DATE **MAR 09 2000**

REQUESTER **John Murawski**

PART I. -- INFORMATION RELEASED

- No additional agency records subject to the request have been located.
- Requested records are available through another public distribution program. See Comments section.
- APPENDICES Agency records subject to the request that are identified in the listed appendices are already available for public inspection and copying at the NRC Public Document Room.
- APPENDICES **A,B** Agency records subject to the request that are identified in the listed appendices are being made available for public inspection and copying at the NRC Public Document Room.
- Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, NW, Washington, DC.
- APPENDICES **A,B** Agency records subject to the request are enclosed.
- Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Comments.

PART I.A -- FEES

- AMOUNT * You will be billed by NRC for the amount listed. None. Minimum fee threshold not met.
- \$ You will receive a refund for the amount listed. Fees waived.
- * See comments for details

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- No agency records subject to the request have been located.
- Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.
- This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

Pages 5 thru 16 of record B/10 is copyrighted and therefore available for inspection only at the NRC's Public Document Room.

One record subject to your request has been referred to another Federal agency for their review and direct response to you.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Carol Ann Reed *Carol Ann Reed*

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

99-162

MAR 08 2000

PART II.A -- APPLICABLE EXEMPTIONS

APPENDICES
B,C

Records subject to the request that are described in the enclosed Appendices are being withheld in their entirety or in part under the Exemption No.(s) of the PA and/or the FOIA as indicated below (5 U.S.C. 552a and/or 5 U.S.C. 552(b)).

- Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.
- Exemption 2: The withheld information relates solely to the internal personnel rules and procedures of NRC.
- Exemption 3: The withheld information is specifically exempted from public disclosure by statute indicated.
 - Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
 - Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
 - 41 U.S.C., Section 253(b), subsection (m)(1), prohibits the disclosure of contractor proposals in the possession and control of an executive agency to any person under section 552 of Title 5, U.S.C. (the FOIA), except when incorporated into the contract between the agency and the submitter of the proposal.
- Exemption 4: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.
 - The information is considered to be confidential business (proprietary) information.
 - The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.790(d)(1).
 - The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.790(d)(2).
- Exemption 5: The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Applicable privileges:
 - Deliberative process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
 - Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation)
 - Attorney-client privilege. (Confidential communications between an attorney and his/her client)
- Exemption 6: The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
 - (A) Disclosure could reasonably be expected to interfere with an enforcement proceeding (e.g., it would reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators).
 - (C) Disclosure would constitute an unwarranted invasion of personal privacy.
 - (D) The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
 - (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
 - (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
- OTHER (Specify)

PART II.B -- DENYING OFFICIALS

Pursuant to 10 CFR 9.25(g), 9.25(h), and/or 9.65(b) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The person responsible for the denial are those officials identified below as denying officials and the FOIA/PA Officer for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECY	IG
Guy P. Caputo	Director, Office of Investigation	SEE ATTACHED	<input checked="" type="checkbox"/>		
R. William Borchardt	Director, Office of Enforcement	SEE ATTACHED	<input checked="" type="checkbox"/>		
Luis A. Reyes	Regional Administrator, RII	SEE ATTACHED	<input checked="" type="checkbox"/>		

Appeal must be made in writing within 30 days of receipt of this response. Appeals should be mailed to the FOIA/Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, for action by the appropriate appellate official(s). You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

DENYING OFFICIAL(S)

RECORDS DENIED

Luis A. Reyes, Regional Administrator, RII

B1, B2, B4, B5, B6, B7, B8, B11, B17, B18, B19, B20, B21, B22, B23, B24, B25, B26, B28, B29, B30, B32, B33, B34, B38, B39, B40, B42, B43, C4, C5, C7

Luis A. Reyes, Regional Administrator, RII and
Guy P. Caputo, Director, Office of Investigations

B/3, B12, B13, B14, B15, B16, B35, B36, B37,

Guy P. Caputo, Director, Office of Investigations

B9, B10, C1, C2, C3, C6, C8

R. William Borchardt, Director, Office of
Enforcement

B27, B31, B41,

**APPENDIX A
RECORDS BEING RELEASED IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	2/5/96	Letter to Florida Power & Light Company from K Landis, Subject: NRC Inspection Report Nos. 50-335/95-22 and 50-389/95-22 (63 pages)
2.	10/3/97	E-Mail from W McNulty, Subject: 2-95-034 (1 page)
3.	2/11/98	Handwritten Notes on St. Lucie (1 page)
4.	5/7/98	Letter to C Evans from W Briggs (2 pages)
5.	08/13/97	Exhibit 17 to Case No. 2-95-034, Letter to C Tate from M Ross (2 pages)

APPENDIX B
RECORDS BEING WITHHELD IN PART
** copyrighted*

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	12/19/95	Allegation Report, Case File No. RII-95-A-0200 (2 pages) EX. 7C & 7D
2.	12/20/95	Index of Concerns, St. Lucie, RII-95-A-0200 (1 page) EX. 7C & 7D
3.	12/29/95	Exhibit 1 to OI Rpt 2-95-034, Investigation Status Record (1 page) EX. 7C & 7D
4.	2/22/96	Exhibit 3 to OI Rpt 2-95-034, Memorandum to C Tate from M Miller, Subject: Status of { } (1 page) EX. 7C
5.	3/14/96	ARB Meeting (3 pages) EX. 7C & 7D
6.	7/9/96	Exhibit 4 to OI Rpt 2-95-034, To W McNulty from J York, Subject: Allegation Inspection Update (1 page) EX. 7C
7.	7/17/96	Exhibit 5 to OI Rpt 2-95-034, To W McNulty from J York, Subject: Allegation Inspection Update (Correction to Information) (1 page) EX. 7C
8.	7/26/96	Memorandum to B Uryc from C Casto, Subject: RII-95-A-0200 - Part Two - Assumptions Used for Safety Evaluations (3 pages) EX. 7C
9.	9/27/96	Exhibit 11 to OI Rpt 2-95-034, Letter to C Tate, NRC from W Briggs (2 pages) EX. 7C
10.	10/10/96	* Exhibit 12 to OI Rpt 2-95-034, Letter to C Tate, NRC from W Briggs (16 pages) EX. 7C (<i>Pages 5-16 copyrighted</i>)
11.	1/26/97	Letter to A Boland, NRC from W Briggs (1 page) EX. 7C
12.	3/19/97	Exhibit 14 to OI Rpt 2-95-034, Report of Interview (1 page) EX. 7C
13.	3/19/97	Exhibit 15 to OI Rpt 2-95-034, Report of Interview (1 page) EX. 7C
14.	3/19/97	Exhibit 13 to OI Rpt 1-95-034, Report of Interview (1 page) EX. 7C
15.	3/19/97	Exhibit 16 to OI Rpt 1-95-034, Report of Interview (1 page) EX. 7C
16.	8/22/97	Report of Investigation, ST. Lucie Nuclear Plant, Case No. 2-95-034 (20 pages) EX. 7C & 7D, 5

17. 9/22/97 E-Mail from A Boland, Subject: RII Enf Panel 9/24/97 Final Agenda (1 page) **EX. 2**
18. 9/24/97 EICS Enforcement Worksheet (6 pages) **EX. 5, 7C & 7D**
19. 10/9/97 Letter to { } from L Reyes (4 pages) **EX. 5 & 7C**
20. 10/15/97 Letter to R Powell from W Briggs with enclosures (4 pages) **EX. 7C, 5**
21. 10/17/97 Letter to W Briggs from A Boland (2 pages) **EX. 7C**
22. 12/16/97 Letter to W Briggs from A Boland (2 pages) **EX. 7C**
23. 12/29/97 Letter to A Boland from W Briggs (3 pages) **EX. 5 & 7C**
24. 1/9/98 Letter to W Briggs from A Boland (4 pages) **EX. 7C**
25. 2/3/98 Letter to W Briggs from A Boland (3 pages) **EX. 7C**
26. 2/4/98 Declaration of { } (18 pages) **EX. 5 & 7C**
27. 2/5/98 Office of Enforcement (1 page) **EX. 7C**
28. 2/5/98 Letter to L Reyes from W Briggs (8 pages) **EX. 5 & 7C**
29. 2/9/98 E-Mail from S Sparks, Subject: RII Enforcement Panel Agenda (1 page) **EX. 2 & 7C**
30. 2/11/98 EICS Enforcement Worksheet (4 pages) **EX. 5, 7C & 7D**
31. 2/11/98 EA Request & Enforcement Strategy Form (1 page) **EX. 7C**
32. 2/23/98 Letter to { } from L Reyes (5 pages) **EX. 7C**
33. 3/28/98 Closed Case Chronology, RII-1995-A-0200 (2 pages) **EX. 7D**
34. 3/28/98 Index of Concerns, RII-1995-A-0200 (1 page) **EX. 7C & 7D**
35. --- Exhibit 2 to OI Rpt 2-95-034, To { } from { } (5 pages) **EX. 7C**
36. --- Exhibit 9 to OI Rpt 2-95-034, Transcribed Tape Interview of { } (9 pages) **EX. 7C**
37. --- Exhibit 10 to OI Rpt 2-95-034, Transcribed Tape Interview of { } (6 pages) **EX. 7C**
38. --- Memorandum for W McNulty and O DeMiranda from K Landis, Subject: St. Lucie Nuclear Plant (1 page) **EX. 7C & 7D**

39. --- Dear { } (1 page) **EX. 5 & 7C**
40. --- { } Timeline (1 page) **EX. 7C & 7D**
41. --- Enforcement Action Worksheet (8 pages) **EX. 5, 7C & 7D**
42. --- Enforcement Action Worksheet (6 pages) **EX. 5, 7C & 7D**
43. --- Enforcement Action Worksheet (7 pages) **EX. 5, 7C & 7D**
44. 9/22/97 Memo to L Reyes et al., from J Lieberman, Subject: OI 2-95-034: Re: St. Lucie Falsification of Information Provided to NRC Related to { } (2 pages) **EX. 5, 7C & 7D**
45. 3/27/98 Letter to Florida Power & Light from K Landis, Subject: St. Lucie Nuclear Plant: Falsification of Information Provided to NRC Regarding Evaluation of { } Investigation, Case No. 2-95-034 (3 pages) **EX. 5 & 7C**
46. 4/1/98 Letter from W. McNulty, Subject: St. Lucie Nuclear Plant: Falsification of Information Provided to NRC Regarding Evaluation of { } Case 2-95-034/RII-95-A-0200 (1 page) **EX. 5 & 7C**
47. 8/29/97 Memorandum to L Reyes from W McNulty, Subject: St. Lucie Nuclear Plant: Falsification of Information Provided to NRC Regarding Evaluation of { } Case 2-95-034/RII-95-A-0200 (1 page) **EX. 7C**
48. 9/4/97 Memo to J Jaudon from B Uryc, Subject: Office of Investigations Report 2-95-034 St. Lucie Nuclear Plant (1 page) **EX. 5**
49. 9/19/97 EA Request & Enforcement Strategy Form (1 page) **EX. 5**

**APPENDIX C
RECORDS BEING WITHHELD IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	2/20/96	Exhibit 6 to OI Report 2-95-034, Investigative Transcript of Interview of Individual (50 pages) EX. 7D
2.	2/20/96	Interview of Individual (50 pages) EX. 7D
3.	8/28/96	Exhibit 7 to OI Report 2-95-034, Report of Interview of Individual (1 page) EX. 7D
4.	12/4/96	To J Johnson from M Miller, Subject: Allegation RII-95-A-200 (2 pages) EX. 7C
5.	12/5/96	What is the Allegation (3 pages) EX. 7D
6.	Undated	To Uryc from McNulty, Ref: OI Case No. 2-95-034, AMS No. RII-95-A-0200 (1 page) EX. 7D
7.	---	To { } from { } (4 pages) EX. 7C
8.	2/25/97	Exhibit 18 to OI Report 2-95-034, PSL Nuclear Safety Speakout Investigation Report (11 pages) EX. 7C

February 5, 1996

Florida Power & Light Company
ATTN: J. Goldberg
President - Nuclear Division
P. O. Box 14000
Juno Beach, Florida 33408-0420

SUBJECT: NRC INSPECTION REPORT NOS. 50-335/95-22 AND 50-389/95-22

Gentlemen:

This refers to the inspection conducted on December 3, 1995 through January 6, 1996, at the St. Lucie facility. The purpose of the inspection was to determine whether activities authorized by the license were conducted safely and in accordance with NRC requirements. At the conclusion of the inspection, the findings were discussed with you and those members of your staff identified in the enclosed report.

Areas examined during the inspection are identified in the report. Within these areas, the inspection consisted of selective examinations of procedures and representative records, interviews with personnel, and observation of activities in progress.

Within the scope of the inspection, violations or deviations were not cited.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be placed in the NRC Public Document Room.

Should you have any questions concerning this letter, please contact us.

Sincerely,

Orig signed by Kerry D. Landis

Kerry D. Landis, Chief
Reactor Projects Branch 3
Division of Reactor Projects

Docket Nos. 50-335, 50-389
License Nos. DPR-67, NPF-16

Enclosures:
NRC Inspection Report

AM

FP&L

2

cc w/encl:

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4

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Tallahassee, FL 32399-1400

cc w/encl: See page 3

cc w/encl: Continued
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Report Nos.: 50-335/95-22 and 50-389/95-22

Licensee: Florida Power & Light Co
9250 West Flagler Street
Miami, FL 33102

Docket Nos.: 50-335 and 50-389

License Nos.: DPR-67 and NPF-16

Facility Name: St. Lucie 1 and 2

Inspection Conducted: December 3, 1995 through January 6, 1995

Lead Inspector: K. D. Landis for _____ 2/5/96
M. Miller Date Signed
Senior Resident Inspector

R. Aeillo, License Examiner, Region II, paragraphs 2.2.1
and 2.8.2

R. Prevatte, Senior Resident Inspector, Retired

S. Sandin, Senior Operations Officer, AEOD

C. Smith, Reactor Inspector, Region II, paragraph 4.1

Approved by: K. D. Landis _____ 2/5/96
K. Landis, Chief Date Signed
Reactor Projects Branch 3
Division of Reactor Projects

SUMMARY

Scope: This routine resident inspection was conducted onsite in the areas of plant operations review, maintenance observations, surveillance observations, engineering support, plant support, review of nonroutine events, followup of previous inspection findings, and other areas.

Inspections were performed during normal and backshift hours and on weekends and holidays.

Results:

Plant operations area:

Walkdowns of the Unit 1 and 2 Auxiliary Feedwater Systems were satisfactory. One example of poor logkeeping, involving the Unit 2 Key log was identified. The restart of Unit 2 following a refueling outage exhibited good Reactor Engineering support, however, deficiencies were identified with the startup physics testing procedure. The manual trip of Unit 2, due to high main generator gas temperature, showed alert operator action in an off-normal condition. The inspector was impressed by the open atmosphere which was established in the post-trip critique

and the active participation of the operators. The Operations Supervisor was effective in soliciting and facilitating the crew's critique of their own performance. The inspector found the process to be highly effective in identifying areas for improvement. One monitored FRG meeting suffered from lack of attendance by organizations with issues before the committee. Quality Assurance audits and assessments reviewed during the period were considered sound and well-focused. Several examples of poor procedure temporary change control were identified and resulted in a non-cited violation.

Outage activities covered during the period, including entry into reduced inventory conditions, the resolution of a leaking reactor vessel head O-ring, and corrective actions for a failed reactor coolant pump seal stage were satisfactorily performed. Overall, the increase in outage work scope provided a significant challenge on plant resources and scheduling. However, the added work activities clearly indicated that plant management was striving to address existing deficiencies and improve plant performance.

Maintenance area:

The inspectors noted good troubleshooting for a Steam Bypass and Control System valve which exhibited questionable subcomponent dimensions. Issues relating to incore instrumentation flanges were satisfactorily resolved and preparations for the retermination of instrumentation leads indicated good worker knowledge and a cautious approach to the evolution. The repair of limit switch fingers for a Limitorque motor operator was satisfactory; however, a poor worker practice, involving sitting on safety-related ductwork, was identified.

Engineering area:

Review of the licensee's 10 CFR 50.59 Safety Evaluation Program revealed that adequate procedural guidance had been established for implementing the program requirements. A 10 CFR 50.59 training program was also being implemented for indoctrination and training in the requirements of 10 CFR 50.59 Safety Evaluations. Work products reviewed were determined to have been prepared in accordance with the program requirements. Additionally, the conclusions documented in most of the 10 CFR 50.59 safety evaluations were conservative and consistent with the inputs used in the analysis. One deficiency involving the preparation of engineering evaluations concerning operability issues was identified. Engineering Evaluations JPN-PSL-SENP-95-101, Revision 0, and JPN-PSL-SENP-95-103, Revision 0, failed to provide a documented level of detail sufficient to demonstrate

validity of the conclusions reached concerning radiological consequences. A potential violation involving failure of the Facilities Review Group to review a safety evaluation JPN-PSL-SENP-95-103 was identified but was subsequently resolved based on additional information provided by the licensee on December 18, 1995.

The inspector concluded that the licensee's engineering organization had provided timely support to the plant in resolving the SG level indication time lag problem. Less than 24 hours elapsed between the unit trip and the resolution of the identified conditions. Further, the conclusions reached regarding root cause were arrived at in a methodical and scientific manner and were validated in the field prior to acceptance.

Plant Support area:

Observations of Physical Security, Fire Protection, and Radiological Protection were satisfactory.

Within the areas inspected, the following non-cited violation was identified associated with events reported by the licensee:

NCV 335.389/95-22-02, "Failure to Properly Implement Temporary Change Controls," paragraph 2.7.4

REPORT DETAILS

Acronyms used in this report are defined in paragraph 9.

1.0 Persons Contacted

Licensee Employees

Ball, R., Mechanical Maintenance Supervisor
*Bladow, W., Site Quality Manager
*Bossinger, L., Electrical Maintenance Supervisor
*Buchanan, H., Health Physics Supervisor
*Burton, C., Site Services Manager
*Dawson, R., Licensing Manager
*Denver, D., Site Engineering Manager
Dyer, J., Maintenance Quality Control Supervisor
*Fagley, H., Construction Services Manager
Fincher, P., Training Manager
Fréchette, R., Chemistry Supervisor
*Fulford, P., Operations Support and Testing Supervisor
Heffelfinger, K., Protection Services Supervisor
*Marchese, J., Maintenance Manager
*Olson, R., Instrument and Control Maintenance Supervisor
Parks, W., Reactor Engineering Supervisor
*Pell, C., Outage Manager
*Rogers, L., System and Component Engineering Manager
*Sager, D., St. Lucie Plant Vice President
*Scarola, J., St. Lucie Plant General Manager
*West, J., Operations Manager
*Wood, C., Operations Supervisor
White, W., Security Supervisor

Other licensee employees contacted included office, operations, engineering, maintenance, chemistry/radiation, and corporate personnel.

2.0 Plant Operations

2.1 Plant Status and Activities

2.1.1 Unit 1

Unit 1 entered the inspection period at full power and remained at essentially full power throughout the inspection period.

2.1.2 Unit 2

Unit 2 entered the inspection period in Mode 5 as a part of an ongoing refueling outage. Due to leaks associated with the inner O-ring of the reactor vessel head, the unit was returned to Mode 6 on December 17. Following maintenance on the O-ring groove, replacement of the O-ring and other maintenance activities, the unit was brought to criticality on January 1, 1996, and was placed on-line on January 5.

On January 5, the unit was manually tripped due to high generator hydrogen gas temperature. At the close of the inspection period, the unit was in Mode 3.

2.2 Plant Tours (71707)

The inspectors periodically conducted plant tours to verify that monitoring equipment was recording as required, equipment was properly tagged, operations personnel were aware of plant conditions, and plant housekeeping efforts were adequate. The inspectors also determined that appropriate radiation controls were properly established, critical clean areas were being controlled in accordance with procedures, excess equipment or material was stored properly, and combustible materials and debris were disposed of expeditiously. During tours, the inspectors looked for the existence of unusual fluid leaks, piping vibrations, pipe hanger and seismic restraint settings, various valve and breaker positions, equipment caution and danger tags, component positions, adequacy of fire fighting equipment, and instrument calibration dates. Some tours were conducted on backshifts. The frequency of plant tours and control room visits by site management was noted.

The inspectors routinely conducted main flow path walkdowns of ESF, ECCS, and support systems. Valve, breaker, and switch lineups as well as equipment conditions were randomly verified both locally and in the control room. The following accessible-area ESF system and area walkdowns were made to verify that system lineups were in accordance with licensee requirements for operability and equipment material conditions were satisfactory:

2.2.1 System Lineups/Area Walkdowns

On December 5, 1995, the inspector performed a walkdown of the Unit 1 AFW system in the CST area, AFW pump rooms, steam trestle area, and the Unit 1 control room and switchgear. The walkdown was conducted in accordance with OP 1-0700022, Rev 34, "Auxiliary Feedwater - Normal Operation." All valves and breakers inspected were found in the normal operating lineup as configured in the above procedures and the AFW P&IDs. General and specific comments are itemized below.

The inspector noted that instrument isolation valves (both units) are neither labeled nor required to be verified per 1(2)-0700022. Furthermore, these instrument valves were neither checked nor required to be checked prior to performing OP 1-0700050, Rev 53, "Auxiliary Feedwater Periodic Test," on December 5, 1995. The inspector reviewed AP 0010143, Rev 11, "Labeling/Tagging of Plant Equipment." The procedure stated in paragraph 8.2.2.B. that instrument valves may be tagged at the discretion of the I&C Supervisor. The inspector discussed the bases of the discretion exercised by the licensee in this case with the licensee, who stated that no policy describing why the valves were not identified was established and that the practice was under review.

On December 7, 1995, the inspector performed a walkdown of the Unit 2 AFW system in the CST area, AFW pump rooms, and steam trestle area. The walkdown was conducted in accordance with OP 2-0700022, Rev 36, "Auxiliary Feedwater - Normal Operation." Many valves were found out of their normal operating lineup as configured in the above procedures due to the outage. The inspector found that there were several valves, listed in the specific comments itemized below, that were not properly configured in accordance with drawing 2998-G-080, Sheet 2B, Condensate System.

2.2.2 Specific Comments:

Valves V09149, V09150, V09542, V09543, V09313, V09314, V09540, V09541, V09133, V09134, V09544, V09545, V09155, V09156, V09546, and V09547, were identified as LOCKED CLOSED valves in OP 2-0700022, Rev 36, "Auxiliary Feedwater - Normal Operation," and actually locked and closed in the plant. However, P&ID 2998-G-080, Sheet 2B, Condensate System, did not reflect actual plant and procedure configuration.

V12829 (2C AFW Pump Suction PDIS-12-52C Upstream Isolation) and V12830 (2C AFW PDIS-12-52C Downstream Isolation) were closed and capped on the P&ID but not in the valve lineup procedure (2-0700022) or the plant.

V09513 (V09303 2C AFW Pump Recirc Downstream Vent) was closed and capped in the plant but not on the P&ID or the valve lineup procedure (2-0700022).

V09153 (PX-09-4B2 Isolation) and V09154 (PX-09-3B2 Isolation) were CLOSED with no valve label or position tag attached. They appeared to be replacement valves.

V08177, 2C AFW Pump Drain, was open as required by OP 2-0700022, however the P&ID list the valve as being normally closed.

The inspector reported these conditions to the licensee. STAR 960004 and STAR 960003 were generated to evaluate the above conditions.

2.2.3 The inspector had submitted the following deficiencies to the licensee as a result of a walkdown of the Unit 2 AFW system in July 1995 (IR 95-14). During this walkdown, the inspector checked the status of these previously identified items:

Nameplate identification was inconsistent with the description in the operating procedure. This deficiency has been corrected.

OP 2-700022, Rev 35, "Auxiliary Feedwater - Normal Operation" listed valves SE-08-1 and V08660 as located in the 2C AFW pump room on the alignment of steam supply system when, in fact, they were in the 2A/2B AFW pump room. This deficiency had not been corrected. STAR 952146 was initiated to address this concern.

OP 2-700022, Rev 35, also listed valves V09149, V09150, V09542, V09543, V09313, V09314, V09540, V09541, V09133, V09134, V09544, V09545, V09155, V09156, V09546, and V09547, as being CLOSED only. The actual configuration was LOCKED and CLOSED. This deficiency has been corrected.

V09540 and V09541 were LOCKED CLOSED with no valve label or position tag attached. They appeared to be replacement valves. This deficiency has been corrected.

2.2.4 ESFAS Cabinet Door Found Open

On December 5, at approximately 1:00 pm, during a control room walkdown the inspector questioned an operator as to why Annunciator R-7, "ENG SFGD CAB DOORS OPEN," was in alarm when all of the Safeguards Cabinet Doors appeared closed. The operator explained that this particular alarm had been in since December 4 and was due a faulty limit switch on one of the Safeguards Cabinet Doors (SA, MA, MB, MC, MD or SB). The operator jiggled each cabinet door handle and pushed the door to see if the alarm would clear. In doing so, the operator discovered that the SA and the MC cabinet doors were unlocked.

A review of Appendix B Rack Key Log showed that key #114, "Safeguard Cabinet," had been signed out and returned by an I&C technician performing instrument calibrations earlier in the day. The operator informed the ANPS, signed out key #114 and locked the two open Safeguards Cabinet doors. The operator identified that one of the limit switches was stuck and initiated Work Request #95020468 for repair.

The inspector discussed the unlocked ESFAS cabinet doors with the Operations Supervisor who stated that he would investigate further and talk to the personnel involved. STAR #952182 was issued on December 5 addressing this problem.

On January 4, the inspector retrieved from the Vault the completed and reviewed Appendix B Rack Key Log for December 5 and compared it with an in-process copy made on December 5. The in-process copy showed various keys signed out and/or in with no reason provided in the last column of the table. The copy retrieved from the Vault listed reasons in all cases. The incomplete entries made on the in-process Appendix B Rack Key Log is identified as a logkeeping weakness, in that there was insufficient information indicating why the key was logged out until after the key was returned.

The inspector discussed this issue with the Maintenance Manager and I&C Supervisor. The inspector agreed that this was an isolated incident involving personnel performance. The licensee intends to implement corrective actions involving training and shop briefings on good work practices. The inspector noted that the safety significance of the loss of access control to the ESFAS cabinets was minimal due to plant conditions (Mode 5) at the time.

2.3 Plant Operations Review (71707, 93702)

The inspectors periodically reviewed shift logs and operations records, including data sheets, instrument traces, and records of equipment malfunctions. This review included control room logs and auxiliary logs, night orders, jumper logs, and equipment tagout records. The inspectors routinely observed operator alertness and demeanor during plant tours. They observed and evaluated control room staffing, control room access, and operator performance during routine operations. The inspectors conducted random off-hours inspections to ensure that operations and security performance remained at acceptable levels. Shift turnovers were observed to verify that they were conducted in accordance with approved licensee procedures. Control room annunciator status was verified. Except as noted below, no deficiencies were observed.

2.3.1 Unit 2 Reactor Trip

On January 5, at 4:36 pm, Unit 2 operators manually tripped the reactor and turbine when main generator cold gas temperature exceeded 52 °C (the limit allowed by plant procedure). The cause for the temperature increase was the erratic operation of TCV-13-15, a temperature control valve which regulated TCW flow to the Unit 2 hydrogen cooling system. The valve had been bypassed during startup and was placed in service (the bypass valve was manually shut) immediately prior to the event.

The inspector responded to the site and found the unit stable in Mode 3. While touring the control room at approximately 6:30 pm, the inspector noted the following tripped conditions with regard to the RPS:

- "A" Channel
Local Power Density Trip
- "B" Channel
SG Low Level Trip
Loss of Load Trip
Local Power Density Trip
- "C" Channel
SG Low Level Trip
Loss of Load Trip

Local Power Density Trip

- "D" Channel
Steam Generator Low Level Pre-Trip (no trip)
Loss of Load Trip

The inspector also noted that a control room SG Level Recorder indicated that SG "A" Level appeared to drop rapidly at the approximate point of the reactor/turbine trips and recovered quickly into a normal range. The inspector questioned the RCO as to the reason for the reduction in indicated level. The RCO had no explanation and appeared to have not noticed the indication.

The inspector questioned the NPS as to the RPS conditions noted above, with particular emphasis on the SG level trips and the lack of an "A" channel Loss of Load trip (the Loss of Load trip would have been expected, as the manual turbine trip would have resulted in a loss of DEH fluid pressure - the parameter sensed by the Loss of Load trip pressure switches). The NPS indicated that he had not noticed the RPS conditions cited and reviewed available strip charts to verify that "A" SG water level had not varied as radically as was indicated (it had not).

2.3.1.1 Post-Trip Critique

The inspector then attended a post-trip critique of the operating crew. The meeting was focused on crew members critiquing their own performance and was facilitated by the Operations Supervisor. Input from the crew resulted in a number of observations, including:

- The evolution of placing TCV-13-15 in service should have been performed with greater diligence, as valves similar to this have been responsible for operational difficulties in the past. More discussions should have occurred prior to the evolution and constant communications should have been employed.
- The operator placing the valve in service noted that the valve was hunting when he left the scene (prior to the trip). The crew felt that he should have reported the hunting to the control room and either remained until oscillations dampened or removed the valve from service.

- Operators who were dispatched from the control room to the valve when temperature conditions were identified tried to adjust the valve's setpoint in an effort to regain valve function. They should have opened the bypass valve, effectively removing the valve from service, and adjusted cooling flow to restore acceptable gas temperature prior to addressing the errant valve.

In all, the inspector was impressed by the open atmosphere which was established in the post-trip critique and the active participation of the operators. The Operations Supervisor was effective in soliciting and facilitating the crew's critique of their own performance. The inspector found the process to be highly effective in identifying areas for improvement.

2.3.1.2 Root Cause Effort

The observations made with regard to SG level indication were documented in STAR 960039. The licensee's engineering organizations performed an analysis of the noted SG level indications. Their efforts included a review of plant computer data (which provided a more refined timeline) for level channels. From this review, the following SG level transmitters were found to exhibit the phenomenon of a rapid reduction in indicated level, followed by a return to normal level indication:

- LT-9013A - SG 2A channel A level
- LT-9011 - SG 2A level indication and recorder
- LT-9013C - SG 2A channel C level
- LT-9023B - SG 2B channel B level
- LT-9023C - SG 2B channel C level (partial reduction)
- LT-9023D - SG 2B channel D level (partial reduction)

The licensee's troubleshooting considered electrical power fluctuations, Rosemount transmitter failure modes, SG tap location and sensing line geometries before concluding that the observed behavior was most probably caused by blockage in the sensing lines for the subject transmitters (blockage could have been in the form of foreign material or isolation valves which were not fully open). The licensee theorized that sensing line blockage could create a pressure response time lag between the SGs and the transmitters. As the transmitters in question employed wet reference legs, any blockage of the sensing lines which did not similarly affect the

reference legs would, in the case of rapid pressurization (e.g. post-turbine trip) result in an unequal pressurization rate across the transmitters. In such a case, the more rapid increase in pressure of the reference legs would result in an erroneously high differential pressure across the transmitters, interpreted electrically as low SG level. Such a condition would then be indicated until the increased SG pressure was transmitted through the sensing line blockage, at which time the pressurization would cancel out across the transmitters, leaving the SG level water column as the only remaining differential pressure across the transmitters and returning the transmitters to their original accuracy.

The licensee validated their theory by first verifying that sensing line isolation valves were fully open. They then cracked open sensing line vent valves for selected transmitters and observed a rapid reduction in indicated SG level. The indicated level reduction implied that water released at the transmitter was not rapidly replaced (due to blockage), thus increasing differential pressure across the transmitter and resulting in an indication of low level. The sensing lines were then blown down fully and a large amount of sludge was recovered (filtered) from the blowdown effluent. Following the blowdown evolutions, cracking open the vent valves did not result in the previously observed reduction in indicated level, implying that the lines were free of time-delay-inducing blockage. The licensee then conducted blowdowns of all SG level transmitter sensing lines.

The licensee's disposition of the STAR also considered issues of past SG level channel operability, analyzed potential sources of the blockage and considered the potential impact of the noted conditions on Unit 1. Because the event occurred at the close of the inspection period, the inspector will review the balance of the licensee's conclusions in IR 96-01. The issue will be tracked as IFI 95-22-01, "SG Level Channel Inaccuracies Due to Sensing Line Blockage."

The inspector concluded that the licensee's engineering organization had provided timely support to the plant in resolving the SG level indication time lag problem. Less than 24 hours elapsed between the unit trip and the resolution of the identified conditions. Further, the conclusions reached regarding root cause were arrived at in a

methodical and scientific manner and were validated in the field prior to acceptance.

2.3.1.2 Post-Trip Review

The inspector reviewed the licensee's post-trip review package, prepared in accordance with OP 0030119, revision 19, "Post Trip Review." The inspector had the following observations with regard to the package:

- The inspector found that data sheets had been completed per the procedure and that the SG level trips discussed above were noted. However, the inspector found that the balance of the RPS trips received following the insertion of the manual trip (i.e. Loss of Load, Local Power Density) were neither described nor dispositioned as expected RPS responses.
- Several copies of strip chart recorder output were not labeled indicating which recorder (or which instrument channels) was represented.

With regard to the inspector's observation that the "A" Loss of Load trip bistable was not illuminated, the licensee verified that the Sequence of Events Recorder showed that the trip had been received at the RPS. Discussions with plant personnel resulted in an I&C Supervisor stating that he had reset the subject bistable some time after the trip. He stated that he had come to the control room to observe the performance of the new NI system (for which he had maintenance responsibility and which share cabinets with the RPS) and noted that the bistables had not been cleared. He stated that he saw no reason why the bistables should not be reset, and began to do so before being told to stop. The inspector pointed out that OP 0030119 stated that RPS trip unit indicating lights must not be reset until their status was noted. While I&C personnel routinely perform switch manipulations at the RPS and other cabinets in the course of performing surveillance testing and calibrations, the inspector found the practice of personnel other than operators manipulating RPS switches to be, at the least, questionable. The inspector conveyed this finding to the Operations Manager, who concurred with the inspector's concern and stated that he would speak with the individual involved.

In conclusion, the inspector found that operators were alert in manually tripping Unit 2. The self-critique of the operating crew following the trip was found to be effective in identifying areas for improvement. The root cause effort with regard to SG level trips received by the RPS was performed in a methodical and scientific manner and conclusions were validated in the field prior to acceptance. The observed practice of a non-operator clearing a reactor trip bistable at the RPS was considered a poor practice. The post-trip review package failed to address RPS Loss of Load and Local Power Density trips received during the event:

2.4 Plant Housekeeping (71707)

Storage of material and components, and cleanliness conditions of various areas throughout the facility were observed to determine whether safety and/or fire hazards existed.

2.5 Clearances (71707)

During this inspection period, the inspectors reviewed the following tagouts (clearances):

- 2-95-12-214 on charging pump 2C - This clearance consisted of five tags. All tags were in place and all breakers and valves were in the correct position.
- 2-95-12-207 on CEDM fans HVE 21A/21B - This clearance consisted of removal of the control power fuses and tagging open the breakers for both fans. All tags were in place. The fuses were removed and the breakers were in the correct position.
- During a review of the Unit 1 Equipment Clearance Log, the inspector noted that Clearance 1-95-12-046 for the HVE-8A Centrifugal Fan for Containment Purge System issued December 18, identified in the Safety Review section that an IV was not required. The clearance involved verification of the position of both HVE-8A and HVE-8B control switches as OFF and two tags on 480 VAC MCC breakers as OFF, all of which were IV'd, contrary to the safety review. Although no violation of NRC requirements occurred, this inadequate safety review emphasizes the

need for attention to detail on the part of operators and supervisors.

2.6 Technical Specification Compliance (71707)

Licensee compliance with selected TS LCOs was verified. This included the review of selected surveillance test results. These verifications were accomplished by direct observation of monitoring instrumentation, valve positions, and switch positions, and by review of completed logs and records. Instrumentation and recorder traces were observed for abnormalities. The licensee's compliance with LCO action statements was reviewed on selected occurrences as they happened. The inspectors verified that related plant procedures in use were adequate, complete, and included the most recent revisions.

2.7 Effectiveness of Licensee Controls in Identifying, Resolving, and Preventing Problems (40500)

2.7.1 Facility Review Group Meetings

The inspector attended the December 27 FRG meeting. The agenda consisted of a review of procedure changes, jumper and lifted leads, and open Unit 2 STARS. The STARS were reviewed to determine if they impacted the restart of Unit 2. The meeting was chaired by the Manager of Plant Services and the membership consisted of the Supervisor of Reactor Engineering, who represented Operations, the I&C Supervisor, who represented Maintenance, the Manager of Licensing, and a Quality Assurance representative.

The inspector noted that the majority of the issues were related to Operations and Engineering and felt that the meeting would have been much more beneficial if an Operations Supervisor and an engineering representative had been present during the discussions on the agenda issues. Several questions were unanswered and had to be rescheduled for a later meeting.

As described below, the licensee's QA organization had performed an assessment of FRG activities. One observation/recommendation involved the lack of FRG attendance by organizations having issues before the FRG and the suggestion that those members attend such meetings. In the case of the December 27 meeting, failure to heed the subject recommendations resulted in the deferral of

recommendations. The inspector concluded that the licensee was slow in implementing the noted recommendations.

2.7.2 Licensee Self Assessment

2.7.2.1 FRG Assessment

The inspector reviewed an assessment performed by the licensee's QA organization and transmitted to the plant on December 18. The report reviewed FRG activities and benchmarked these activities against similar functions performed at Arkansas Nuclear One, Surry, and Turkey Point.

The assessment found that the FRG was fulfilling its responsibilities under TS to review issues and advise the Plant Manager. One weakness, involving the volume of material being reviewed by the FRG, was identified. The number of documents requiring FRG review per TS was noted as being larger than that at the three sites with which PSL was compared. The assessment recommended that TS be amended to narrow the scope of FRG reviews to those activities directly affecting nuclear safety.

Other recommendations included:

- Revise the procedure development and review process to strengthen technical reviews and to combine TCs and PCRs.
- Establish a procedure review committee, under the cognizance of FRG, to conduct procedure reviews.
- Reduce the backlog of FRG meeting minutes.
- Consider reducing FRG membership to add consistency to the review process.
- Distribute copies of all materials being reviewed to all FRG members to create parallel, rather than series, reviews during FRG meetings.
- Consider the desirability of conducting meetings with only a quorum present. The assessment stated that the composition of the FRG at a given meeting should be reflective of the material being considered and that

Operations, as "owners of the plant," should always be present.

Overall, the inspector found the assessment to be insightful and appropriately self-critical. The inclusion of a team member from Arkansas Nuclear One, and the visit to Surry, were considered good initiatives.

2.7.2.2 Corrective Actions Assessment

The inspector reviewed an assessment of Corrective Actions at PSL, conducted by the licensee's QA organization and transmitted to the site on December 20. The assessment was conducted in accordance with NRC Inspection Manual Chapter 40500.

The document identified a number of strengths and weaknesses. The weaknesses included:

- Trending which was insufficient to detect repetitive failures.
- STAR corrective actions which were generally narrow in scope.
- A high number of overdue STARs.
- Generally ineffective training on the STAR program.

Strengths included:

- An aggressive approach to reduce the number of TCs.
- Aggressive followup on QA-initiated STARs
- Thorough operability assessments for STARs
- Management involvement in problem-solving.

For each identified weakness, a series of options were recommended and a final recommendation was made from among those offered. The inspector found the assessment to be thorough in scope and effective at identifying and supporting weaknesses. The licensee's QA

organization continues to provide the plant with sound independent views on issues of concern.

2.7.3 QA Audit Review

The inspector reviewed the corporate QA audit of the Nuclear Assurance Quality Control Program dated December 6, 1995 of the Juno Beach, Turkey Point, and St. Lucie plants. The following comments are applicable to the St. Lucie plant only. Five audit findings applicable to St. Lucie Quality Control were identified in the report. These items included:

- Discrepant conditions identified by QC inspections are not being documented as unsatisfactory and requiring documented corrective action.
- Construction and Maintenance QC not performing all scheduled surveillance activities.
- Inspection personnel using non-controlled documents to verify safety related replacement parts use.
- NDE reports not receiving independent certified reviews.
- Quality procedures and instruction not maintained current with procedures and practice.

The report noted that the first two of the above items had resulted in a management perception of better performance than what really existed. The inspector noted that specific corrective actions were required for each identified deficiency and that a 90 day deadline for that action was specified. Overall, this audit appeared to be detailed and thorough and clearly documented to provide a good working document for improvement.

2.7.4 Temporary Procedure Changes

2.7.4.1 Background

The licensee, after experiencing several problems involving personnel errors and procedural compliance in August and September, implemented a station wide policy requiring verbatim procedural compliance. As personnel attempted to follow procedures step-by-

step to accomplish each task, numerous procedural deficiencies were identified. This resulted in a large number of temporary changes to procedures to permit the completion of tasks until the procedures could be revised or rewritten as needed.

The inspector expressed a concern with the number of changes that were occurring and the licensee quality assurance organization conducted an audit of this program. The audit found that the several hundred TCs generated on each unit was placing a serious administrative burden on operators to control and administer this process. As a result of this audit, the following immediate and long term corrective actions were implemented to the TC process on December 1, 1995:

Immediate Corrective Actions:

- All departments review TCs for conversion to PCRs or CANCEL. (Due prior to Mode 2)
- Any subsequent TCs approved shall include a PCR unless the TC is a "One-time only" change. (Due prior to Mode 2)
- The FRG shall expedite PCR review.
- The TC index will be consolidated concurrently by the team with the above efforts with the goal being a MINIMUM of TCs (reduce by 75 percent by Mode 2).
- Non-unit specific procedures will have their own "common" TC log, kept in Unit 1. (Due prior to Mode 2)
- Make the CANCELED TC distribution identical to the APPROVED TC distribution. (Due prior to Mode 2)
- Make necessary changes to QI 5-1 to incorporate above actions. (Due prior to Mode 2)
- Make Information Services accountable for TC index control. (Due prior to Mode 2)

Long Term corrective actions:

- Provide CLEARLY PROCEDURAL DEFINED CRITERIA when a procedure change is to be processed as a TC. Any other procedure changes shall be considered as PCRs. (Due January 31, 1996)
- Consolidate the TC and the PCR process into one process. Combine forms to allow for expeditious processing of PCRs along with TCs. (Due January 31, 1996)
- Eliminate Licensing from the distribution process. (Due January 31, 1996)
- Procedurally limit maximum number of TCs to three (3) per procedure or one (1) per page. (Due January 31, 1996)
- Establish the interface between TCs and QI 6-1. (Due January 31, 1996)
- Revise QI 5-1 to better define the overall process and accountability associated with procedure changes. (Due January 31, 1996)
- Benchmark against other utilities. (Due January 31, 1996)

Based on the above, it appeared that the licensee had implemented changes in an attempt to address the large number of procedure changes that have been required to implement verbatim procedural compliance. The majority of these changes have been helpful, but additional management and supervisory attention is still needed to effectively resolve this issue.

2.7.4.2 Failure to Incorporate TCs in Working Procedure

Following maintenance performed on December 20, the inspector reviewed the work package containing the Maintenance and Post Maintenance Test Procedures. MP-09400775 (describing the subject maintenance work) had 2 TCs in the work folder which were not incorporated into the working procedure. Both TCs were identified as procedural improvements. TC #1-95-538 allowed for performance of steps out of sequence and TC #1-95-565 required verification of field wiring deficiencies be documented in the PWO. The worker who signed off the procedural steps was aware of these TCs and acknowledged that both needed to be incorporated. The inspector

reviewed QI-5-1 Rev 67, "Preparation, Revision, Review/Approval of Procedures", and discussed this item with the worker the following day. This worker said that, as a member of the Electrical Planning Department, working procedures are issued with the TCs incorporated and that, in this particular instance this was not done due to an oversight. Further, he had missed incorporating the applicable TC prior to performing the maintenance.

QI 5-PR-PSL-1, Rev 67, "Preparation, Revision, Review/Approval of Procedures," Section 5.9.28, stated that "Personnel using procedures affected by temporary changes shall use the TC number(s) to locate and review the actual temporary change, filed in the TC log book. If the change pertains to the portion of the procedure being used, the change shall be made by lining through the affected portion and adding the temporary change. The temporary change shall be noted by writing the TC number in the margin next to the affected area." The failure of the maintenance worker to properly incorporate the subject TCs was a violation of the requirements of QI 5-PR-PSL-1 and is further discussed in paragraph 2.7.5 below.

2.7.4.3 Failure to Remove Expired TCs From TC Logs

The inspector audited the TC logs in Unit 1 and Unit 2 control rooms on December 26, 1995. The Unit 2 TC logs were satisfactory. The Unit 1 log index contained a number of TCs that had exceeded the 90 day expiration date, as follows:

TC	Date Initiated
1-95-310	9-19-95
1-95-334	9-22-95
1-95-338	9-22-95
1-95-342	9-22-95
1-95-350	9-26-95
1-95-364	9-26-95
1-95-365	9-26-95

The inspector informed the ANPS of these deficiencies and the ANPS stated that he would cancel the TCs that had expired. The inspector reviewed these logs again on the morning of December 27 and found that TC 2-95-205 (which had been initiated on 9-19-95) had not been canceled. The inspector informed the ANPS of this and observed him cancel the TCN.

QI 5-PR-PSL-1, Rev 67, "Preparation, Revision, Review/Approval of Procedures," Section 5.9.25, stated that TCs expired 90 days after authorization and required that the ANPS/NPS initiate a cancellation upon expiration. The failure to cancel the above TCs is a violation of the subject procedure and is further discussed in paragraph 2.7.5 below.

The inspector questioned whether or not PCRs had been prepared to incorporate the subject TCs into procedure revisions. The results were as follows:

- TC 1-95-310 had no PCR prepared. A PCR was subsequently generated.
- TCs 1-95-334, 1-95-338, and 1-95-342 had PCRs prepared and were incorporated into procedure revisions on December 21.

The inspector noted that revision 67 of QI 5-PR-PSL-1 became effective on December 8, 1995. This revision required PCRs to be submitted to the FRG at the same time as the subject TC. Prior to this requirement, no time frame was established by which PCRs should have been submitted following a TC. As a result, the inspector concluded that the failure to prepare PCRs for the subject TCs, and to have them in force prior to the expiration of the TCs, was not in explicit contradiction of the subject QI; however, the inspector found the practice weak and counter to the intent of ensuring that adequate procedures were available and up-to-date.

2.7.4.4 Failure to Remove Expired TCs From HSPs

On December 29, the inspector reviewed the procedures maintained in the Hot Shutdown Panel rooms for both units. This review consisted of a verification of the current revision and incorporation of effective TCs. The following discrepancies were noted:

- OP 1-0030127, Rev 72, "Reactor Plant Cooldown - Hot Standby to Cold Shutdown" had 5 TCs written on previous Rev 70. These included:
 - TC 1-95-403 issued September 30
 - TC 1-95-392 issued September 29
 - TC 1-95-401 issued September 30
 - TC 1-95-402 issued September 30

- TC 1-95-421 issued October 2

A review of the TC Log index maintained in the Unit 1 control room did not contain any reference to the above TCs which implied that they had been canceled. It was currently the practice to transcribe the active index entries to a new index sheet following numerous cancellations to minimize paperwork. An employee in the Information Services Department responsible for making controlled distribution of this procedure showed the inspector a memo dated December 7, canceling three of the five above TCs. He also acknowledged that he had overlooked removing canceled TCs from the Hot Shutdown Panel rooms. The remaining two TCs were verified canceled using a list of active TCs provided by the Licensing Department.

- OP 2-0030127, Rev 61, "Reactor Plant Cooldown - Hot Standby to Cold Shutdown," had 2 TCs; one written on the previous Rev 58 and the other on the current Rev 61. These were:

TC 2-95-228 issued October 2

TC 2-95-643 issued December 14

A review of the TC Log index maintained in the Unit 2 control room showed that both of these TCs were active, however, TC 2-95-228 had been incorporated in the procedure. The ANPS canceled this TC.

QI 5-PR-PSL-1, Rev 67, "Preparation, Revision, Review/Approval of Procedures," Section 5.9.26, stated that TCs were to be removed from documents upon notice of cancellation or after 90 days, whichever comes first. The failure to remove the canceled TCs, detailed above, was a violation of the subject procedure and is further discussed in paragraph 2.7.5 below.

2.7.5 Conclusion

On January 2, the Information Services Manager met with the inspectors to describe the licensee's efforts to address the lack of effective TC control. He intended to propose that all TCs be incorporated as PCRs within 14 days of the date of issue. He further identified the failure to remove the canceled TCs from the HSP as a personnel performance issue.

The inspector noted that the deficiencies identified above were addressed generically in the licensee's corrective actions for the identified problem of TC control. Additionally, the inspector noted that, at the time the deficiencies were identified, the Mode 2 closure point of the licensee's short term corrective actions had not been reached. The inspector concluded that the identified deficiencies represented only minor safety concerns. Consequently, the instances of failing to follow QI 5-PR-PSL-1 are considered examples of a violation of minor significance and is being treated as a Non-Cited Violation, consistent with Section IV of the NRC Enforcement Policy (NCV 335,389/95-22-02, "Failure to Properly Implement Temporary Change Controls"). The noted conditions highlight the need for increased management attention to procedure issuance and change control.

2.8 Outage Activities (71707,71750,62703)

2.8.1 Outage Work Scope

The inspector reviewed the overall outage work scope to determine if the planned critical work had been completed; if any needed work activities had been canceled; and to determine the status of emergent items. The following was identified:

- Planned outage activities - 3317
- Completed work activities - 7118
- Activities added after
(outage freeze date and emergent) - 3801
- PCMs planned - 41
- PCMs completed - 95
- PWOs added
(emergent and backlog reduction) - 1486
- STARS completed - 282

The above shows that outage activities experienced a 115 percent increase. This was primarily due to the increase in outage scope and work to address the problems identified by plant management

after the Unit 1 unplanned outage. This action was taken to reduce existing operator workarounds, long term equipment problems, and other plant deficiencies. This work should result in improved plant performance.

The inspector also found that 54 planned work activities had been canceled. A review of each of these items with the outage manager and the assigned department found that these cancellations were adequately justified based on: incomplete design, lack of parts/material, or inadequate resources. In each case, the work had been rescheduled for either on-line maintenance or the next scheduled outage. The inspector determined that this delay in completion was justified.

Overall, the increase in outage work scope provided a significant challenge on plant resources and scheduling. However, the added work activities clearly indicated that plant management was striving to address existing deficiencies and improve plant performance.

2.8.2 Containment Closeout (71707)

The inspector conducted a walkdown of Unit 2 containment with QC on December 7, 1995. The inspector visually inspected containment housekeeping, component and instrument conditions, storage of equipment and material, pipe hanger and seismic restraints, breaker and instrument covers, and the reactor cavity torpedo tubes. The inspector was only able to perform a visual inspection of the top grading of the containment sump area due to inaccessibility. The following discrepancies were QC and NRC identified:

- A pair of dikes was found on top of 2A SG undergrading.
- There was a barrier around the Hydrogen Recombiner.
- The insulation was damaged on the V1239 line located on top of the pressurizer wall.
- A power receptacle on the 43', 330 degree azimuth was missing a cover.
- A keyway channel "D" liner box was missing on the 18' level.

- The biowall radio wire was still installed. It required removal and cover reinstallation.
- Many of the HP postings were still hung.
- I-95 scaffolding was still on the RV head.
- Head sets, lights and cables were still on the RV head.
- Cannon plugs were still on the refueling machine.
- The torpedo tube bolts were not secured.
- The Woodhead cover was missing on the polar crane catwalk (east side).
- There were 2 conduit clamps that did nothing (located on PC walkway - far end).
- JPN strain computer cables for pressurizer SRV were still attached.

While deficiencies existed, the inspector noted that the number of deficiencies was decreased over previous containment closeout walkdowns, indicating an increase in the effectiveness of the licensee's cleanup effort.

2.8.3 Unit 2 Reduced Inventory Operations (71707)

On December 16, Unit 2 entered a reduced RCS inventory condition to support 2A2 RCP seal work and several other miscellaneous valve repairs. The following items were verified prior to this evolution:

- Containment Closure Capability - Instructions were issued to accomplish; men and tools were on station. The only containment openings were valve 3259 on SIT 2A2 fill line that could be open during maintenance on LPSI A header, the equipment and personnel hatch. The inspector verified that personnel were assigned with specific duties to close these penetrations for containment integrity.
- RCS Temperature Indication - The inspector verified that two CETs were available for indication.

- RCS Level Indication - The inspector verified that independent RCS wide and narrow range level instruments, which indicate in the control room, were operable. An additional Tygon tube loop level indicator in the containment was to be manned during level changes and was displayed via closed circuit television in the control room. The inspector verified that the tygon tube was free of obvious kinks and properly supported.
- RCS Level Perturbations - When RCS level was altered, additional operational controls were invoked. Procedural restrictions required operators to terminate maintenance activities that could affect RCS level, shutdown cooling, or related instrumentation and controls.
- RCS Inventory Volume Addition Capability - The inspector verified that one (of three) charging pumps and a HPSI pump were available for RCS addition.
- Vital Electrical Bus Availability - Operations would not release busses or alternate power sources for work during reduced inventory conditions. The 1A and 1B EDG were operable. Governing procedures prohibited switchyard work during reduced inventory conditions and signs were posted to that effect at the switchyard.
- Pressurizer Vent Path - The manway atop the pressurizer was removed to provide a vent path, and a vented FME device was attached.

The inspector reviewed AP 0010145, Rev 7, "Shutdown Cooling Controls," and OP 2-160023, Rev 38, "Refueling Sequencing Guidelines," and found that initial conditions either were satisfied at the time of the review or could be satisfied by the time inventory reduction commenced.

The inspector completed the above verifications on the morning of December 16 and notified the Regional Duty Officer of these conditions. He also attended the control room pre-evolution briefing and was in the control room during the drain down to reduced inventory. The briefing was detailed and thorough and attended by operators and by outage personnel. Overall preparations for this evolution were considered excellent. The inspector

conducted routine inspection while the unit was in reduced inventory to ensure that all the above conditions were maintained. No deficiencies were identified. The 2A2 seal was replaced, the other valve repairs were completed, and the unit exited reduced inventory at 10:00 pm on December 17.

2.8.4 Reactor Head O-Ring and RCP Seal Leaks Delay Restart

The Unit 2 RFO was originally scheduled to end in late November. Due to added outage work, the majority of the outage work was not completed until second week of December. When the RCS was pressurized, the unit experienced a small amount of leakage past the reactor vessel head inner O-ring. Since this was a self energizing O-ring, a decision was made to monitor this condition and raise the RCS to NOP/NOT. After starting RCPs, the licensee also found that the lower seal on RCP 2A2 was experiencing excessive leakage.

A management decision was made to monitor the leakage of both the above and continue RCS heatup and pressurization to NOP/NOT to check for leakage of any other components and then cooldown, depressurize, and repair all existing leaks. This testing revealed leaks in several other valves that required repair.

The unit was cooled down and entered Mode 5 on December 16, and Mode 6 on December 17. The unit entered reduced inventory on December 17 and replaced the 2A2 RCP seal. The reactor vessel head was removed and inspection revealed pitting in the O-ring seating surfaces. The pitted areas were inspected by the licensee, CE, B&W, and a representative of the O-ring manufacturer. The maximum pitting depth was approximately .005 inches, so a decision was made to hone these areas by hand to reduce the imperfections to permit an acceptable sealing surface. Engineering and maintenance developed a plan to do this work with the assistance of a vendor who had personnel available on site. The work was planned to start on December 20.

The inspector attended several of the meetings where this work was discussed in detail. The inspector also attended the prejob briefing held on December 20. At this meeting it became very apparent that HP and maintenance had not completed adequate planning

to allow the start of this task. Some of the planning deficiencies identified included:

- No specific manager assigned to this critical path job.
- No specific guidance on how the honing was to be done.
- No criteria for radial or circumferential dimension and depth of the honed and blend-in areas.
- Dress out requirements and exposure limits had not been determined.
- No specific inspection criteria or inspection personnel assigned.
- Engineering involvement and availability.
- Radiation shielding requirement not predetermined.
- Lighting requirements.
- Specific work procedure not developed.
- Had not decided if one location would be weld repaired or honed.

After listening to the discussion for approximately one hour, the inspector reported his concerns to the maintenance manager, who stopped the prejob briefing and assigned a manager to this job. The job was replanned and worked the following day.

The licensee was able to hand hone all indications in the O-ring seating surface to an acceptable level of less than 0.002 inches. This appears to be adequate to prevent leakage past the seal.

The reactor head was then set on December 22 and the unit entered Mode 5 on December 23.

The licensee's root cause analysis of the reactor vessel head and flange pitting determined that it was a result of crevice corrosion, most probably due to the introduction of contaminants to the groove during refueling outages.

2.8.5 RCP 2A2 Seal First Stage Failure

During Unit 2 RCS pressurization on December 9, the licensee discovered that RCP 2A2 first stage seal had failed. The seal was replaced on December 16 and 17.

The seal had been previously replaced during the current refueling outage. The licensee was concerned about this failure, and a root cause team was established to investigate and evaluate this item. This team found that the root cause of the seal first stage failure was a rapid depressurization of the RCP middle seal cavity pressure. The team came to this conclusion after a detailed examination of ERDADS data and the RCO chronological log. The following scenario is the licensee's explanation of the first stage seal failure:

- Mechanical Maintenance installed the new 2A2 RCP seal sometime on the morning or early afternoon of November 29, 1995. RCS integrity was established which allowed Operations to raise the RCS level in accordance with OP 2-0120020, "Filling and Venting the RCS." This portion of the fill and vent procedure aligned seal injection to the RCP seals to alleviate the possibility of damaging the seals with "dirty" water.
- Operations started and stopped the 2A charging pump three times during the evening of November 29, 1995, between 9:00 pm and 10:38 pm, with seal injection aligned to all four RCPs.
- During the first two starts of the 2A charging pump the 2A2 RCP pump was still uncoupled from the motor. The ERDADS data suggested that the 2A2 RCP was coupled between the second and third starts of the 2A charging pump (i.e. between 9:51 pm and 10:30 pm) as the pump was started three times and only two pressure spikes appeared on the ERDADS graphs. ERDADS data for the other three RCPs was reviewed with no indications of any pressure changes while the 2A charging pump was running. The RCP recirc impeller located at the bottom of the seal cartridge housing is a metal to metal fit designed to hold 20 psig from the RCS to the seal cartridge housing. In some cases the recirc impeller may leak slightly due to lodged particles at the fit.

- With the recirc impeller seated, the seal injection water pressurized the middle, upper, and bleedoff cavities of the 2A2 RCP seal and assisted in seating the recirc impeller in the bottom of the seal cartridge housing. ERDADS data showed that the middle cavity pressure increased to at least 150 psig on two occasions.
- At this point one of two things occurred:
 - When the 2A charging pump was secured the recirc impeller leaked slightly and the static head pressure and the pressure increase by the 2A charging pump caused a reverse pressure condition on the 2A2 RCP seal.

OR

- When the pump was coupled (and the recirc impeller lifted off its seat) the static head pressure and the pressure increase by the 2A charging pump caused a reverse pressure condition on the 2A2 RCP seal.
- A reverse pressure condition on an RCP seal caused the backup ring seat O-ring or the U-cup to become dislodged and explained the cause of the first stage failure. The RCP vendor (Byron Jackson) has stated that as little as 15 to 20 psi reverse pressure can cause this condition to take place. The fact that the 2A2 RCP seal re-staged itself after the pump was secured on December 13, 1995 lends more credibility to a U-cup being temporarily dislodged as it is more plausible than an O-ring being temporarily dislodged.

The licensee's corrective action for this failure included:

- Replacement of this failed seal.
- Revising OP 2-0120020, "Filling and Venting the RCS," to include the use of ERDADS display as the primary data source and the local temporary gauges installed in the containment building as the secondary source for recording RCP seal cavity pressures during RCP sweeps and other low

pressure operating conditions. The use of control room installed instrumentation for recording RCP seal pressures during these conditions should be discontinued as they cannot be read accurately at these low pressures.

- Revising OP 2-0120020, "Filling and Venting the RCS," to ensure that the Operations Department does not raise the RCS water level until after Mechanical Maintenance has completely coupled the RCP for the final time.
- Revising GMP M-0009, "Reactor Coolant Pump Seal Installation," to alert Mechanical Maintenance to ensure that Operations does not raise RCS water level until the RCP is coupled.
- Disassembly and inspection of the failed seal to identify any additional deficiencies.

The inspector reviewed the licensee's root cause and corrective actions taken for the RCP seal first stage failure and found it to be detailed and thorough. The corrective action appeared to be adequate to prevent a future failure of this type.

2.8.6 Unit Restart

On December 30, the inspector attended a briefing to operators covering unit startup activities. The briefing was conducted by the Operations Supervisor, and included management expectations for control of the evolution, defined the chain of command and control, discussed the overall order for the activities to be performed, reviewed criteria for determining criticality, and delineated criteria for tripping the reactor. A discussion of a reactivity event during startup at another facility was also included to underscore the importance of cautious operations. A portion of the briefing was presented by the Reactor Engineering Supervisor, who described the expected dynamic behavior for the new core load and compared and contrasted the new NI system (installed during the current outage) with the old. Overall, the inspector found the briefing to be comprehensive and well-focused.

On January 1, the inspector observed the licensee perform the Unit 2 approach to criticality using Preoperational Test Procedure No. 2-3200088, Rev 10, "Unit 2 Initial Criticality Following Refueling."

The inspector reviewed the Inverse Count Rate Ratio Data Sheet and the RCS Dilution 1/M Plots used to evaluate the boron dilution rate. The Reactor Engineer effectively analyzed the data and provided timely feedback to operations. Criticality was verified at approximately 2:26 am by a sustained positive startup rate and steadily increasing flux level.

On January 4, the inspector reviewed the completed FRG approved Unit 2 Preoperational Test Procedure No. 3200091, Rev 7, "Reload Startup Physics Testing," and noted the following discrepancies:

- TC # 0-96-001 deleted "the signal summing box" in step 5.2.2 since this item is no longer used. However, references to this item still appear in steps 5.3.1 and 8.1.
- The acceptance criteria listed in step 10.6 Appendix E, Rod Worth Measurements (Rod Swap) are given as \pm values, whereas in the Appendix E itself, these criteria are identified as \leq values with no lower bounding value.
- For Appendix A step 2, the Appendix G step 3 delta ppm average is incorrectly calculated as 2.3. It should read 1.0. This reduces the calculated quantity from 0.14 to 0.06 which is still within the acceptance criteria of ± 2 percent.
- For Appendix E step 11, the Appendix G step 3 delta ppm average is incorrectly calculated as 1.67. It should read -0.33. This reduces the calculated quantity from 0.12 to -0.03 which is still within the acceptance criteria of ± 2 percent.
- Appendix A step E percent difference is incorrectly calculated as .03 percent. It should read -.03 percent.
- Appendix C step 1 identifies "Measured Critical Boron Concentration" from Appendix A step 2. This is an averaged value.
- Appendix D Average ITC is incorrectly calculated as -0.96. It should read -0.97. The MTC measured of 0.56 is correct

using -0.97. However, it was incorrectly calculated if you use the incorrect Average ITC of -0.96.

- The ZPPT Test Record completed per Appendix E step 1 incorrectly lists Boron Concentration of the "Last RCS Sample" as 154 ppm taken at 0915. This should read 1549 ppm from Appendix G Special CBC Instructions - Boron Concentration Log.
- Appendix E Rod Worth Measurements by Rod Swap step 6.J utilizes a calculated absolute percent Deviation of 2.3 percent with an acceptance criteria of ≤ 10 percent for the Reference Group. Step 11 recalculates this same percent Deviation as -2.3 percent with the same acceptance criteria of ≤ 10 percent.
- Appendix F step 2.A contains the instruction "If the Measured CEA Worth is <90 percent of the Design CEA worth, then reduce the Total design CEA Worth below by the same percentage". No detailed calculational step or formula is provided to do this.
- Appendix G Special CBC Instructions - Boron Concentration Log incorrectly identifies several Appendices and steps where particular boron sample results are used in the procedure.

These deficiencies were reported to the licensee, and were subsequently documented on STAR 0-960030.

2.9 Followup of Operations LER's (92700)

2.9.1 (Closed) LER 335/95-002, "Missed Emergency Diesel Generator Surveillance Due to Procedural Deficiency."

This event was the result of deficient procedural guidance that did not require independent verification of a TS interpretation. The action to perform weekly testing until five or less test failures in the last 100 tests was not accomplished. As a result of the above, the licensee modified the test procedure to accomplish this action. They also verified that the correct testing frequency was and had been accomplished with the required frequency. The licensee has submitted and received approval to delete this TS requirement under

the guidance provided by NRC Generic Letter 94-01. The inspector verified that this TS change had been implemented and the other stated corrective actions had been completed.

2.10 Followup on Previous Operations Inspection Findings (92901)

2.10.1 (Closed) VIO 335/95-01-01, "Failure to Perform TS Required Sampling of 1A1 SIT."

This event occurred when the chemistry technician sampled the wrong SIT. The licensee has revised their procedures for filling SITs to include a data sheet that is generated when filling starts and requires sampling prior to data sheet closure. The chemistry department also enhanced their computer program for logging samples to include a time dependent notification system to track sample requests. In addition, each department has implemented procedural steps to require independent verification of surveillances. This and added training of all effected personnel should prevent a recurrence of this event.

2.10.2 (Closed) VIO 335/95-15-01, "Failure to Follow Procedure and Block MSIS Actuation."

This event occurred during a plant cooldown, when the licensee noted that all actuation equipment was already correctly positioned and failed to block this actuation signal. The licensee's corrective action included:

- Blocking signal.
- Counseling and disciplining operator.
- NPSs held meeting and reiterated procedural requirements and goals to operators.
- Event incorporated into licensed operator requalification training.
- Plant adopted verbatim procedural compliance policy.

The inspector verified that the above corrective actions as stated in the licensee response to this violation dated November 15, 1995 had been accomplished.

2.10.3 (Closed) VIO 335/95-15-02, "Failure to Follow Procedure During RCP Seal Restaging."

The licensee responded to this violation in a letter dated November 15, 1995. The licensee's corrective actions included:

- Counseling and disciplining responsible operators.
- Deleting the procedure appendix that permitted seal restaging.
- Completed a management assessment of the decision making process that allowed this event to occur and revised plant policy 105 "Plant Operation Beyond the Envelope of Approved Operating Procedures," to require a technical review prior to first time use of procedures.
- Held meetings and discussed this event and management expectations with operators.
- Adopted verbatim procedural compliance.

The inspector verified that the above actions had been completed. It appears that this action should reduce or prevent occurrence of this on similar issues.

2.10.4 (Closed) VIO 335/95-15-04, "Failure to Follow Procedures During Alignment of Shutdown Cooling System."

The licensee responded to this violation in a letter dated November 15, 1995. The licensee's corrective actions included:

- Correctly aligning system when discovered.
- Satisfactory testing of affected LPSI pump .
- Counseling and disciplining operators.
- Implemented new requirement for dedicated procedure reader for critical tasks.
- Meeting with operators to emphasize mistake and stress needed corrective actions.
- Adoption of verbatim procedural compliance.
- Incorporated event into requalification training for operators.

The inspector verified that the above action had been completed. This should prevent recurrence.

3.0 Maintenance and Surveillance

3.1 Maintenance Observations (62703)

Station maintenance activities involving selected safety-related systems and components were observed/reviewed to ascertain that they were conducted in accordance with requirements. The following items were considered during this review: LCOs were met; activities were accomplished using approved procedures; functional tests and/or calibrations were performed prior to returning components or systems to service; quality control records were maintained; activities were accomplished by qualified personnel; parts and materials used were properly certified; and radiological controls were implemented as required. Work requests were reviewed to determine the status of outstanding jobs and to ensure that priority was assigned to safety-related equipment. Portions of the following maintenance activities were observed:

3.1.1 Steam Bypass and Control Valve

On December 27, the inspector attended two meetings to discuss the acceptability of the post-outage configuration of Unit 2 PCV-8801, the 8" Steam Bypass to Main Condenser (5 percent capacity) identified in STAR #952223. This valve which had a trim upgrade installed this outage. During Flowscan testing, the licensee discovered that the inner plug travel was 0.32 inches instead of the recommended 0.48 inches $+0.12/-0.06$ inches as specified on the vendor supplied drawing. Since the upgraded trim was assembled by the vendor and installed as a unit, the licensee arranged for a vendor representative to provide onsite assistance in evaluating the performance of this valve.

On December 28, the vendor representative worked with members of the licensee's I&C, MM, SCE and Engineering Departments to analyze the available data and develop options. Three options were considered:

- Leave As Is
- Put in the old trim that was removed during the outage

- Remove, repair, and reinstall new trim

The vendor representative recommended option 1 based on the following:

- No significant change in the balancing cylinder pressure with the reduced inner plug travel (assuming a normal piston ring leakage rate).
- The specified inner plug travel of 0.50 inches was for use with a 10 inch trim size. The reduced travel provides sufficient flow capacity in an 8 inch trim.
- The presence of balancing ports not found in the old trim which reduces the risk of erratic positioning.

The licensee accepted the vendor recommendation subject to a thorough engineering evaluation and functional testing.

On January 2, while in mode 2, operators encountered difficulties in maintaining stable secondary plant conditions using the Low Power Feedwater Control and the Steam Bypass Control Systems. Operators placed the SBCS in manual due to apparent control system instability. PWO 64/8342 was revised to allow hookup of test equipment to troubleshoot the SBCS. Output of the SBCS master controller, SG pressure and demanded steam dump valve position for PCV-8801 and PCV-8802 suggested that a controller reset adjust was required. This was performed and a second set of data showed stable steam dump valve operation.

On January 3, the licensee continued efforts to troubleshoot the Low Power Feedwater Control System per PWO 64/6084. A vendor representative arrived onsite to assist the licensee in evaluating system response. At the close of the inspection period, the licensee was continuing to monitor the performance of the SBCS. The inspector concluded that the licensee performed good troubleshooting in the identification and treatment of this issue.

3.1.2 ICI Flange Issues

The inspectors reviewed selected aspects of the reassembly of the ICI flanges following reactor vessel head tensioning.

The inspectors noted that PWO 64/8703, which had been issued to clean and lubricate ICI flange hardware had resulted in the generation of a STAR by QC. STAR 951770 documented the inspections conducted in accordance with QC holdpoints in I&C procedure 1400023. The QC inspector had identified galling on the conical side of all greylock nuts, the outside surfaces of greylock clamps, and on the inside of some greylock clamp bolt holes. The inspector reviewed the disposition to the STAR, which included vendor evaluations of the subject conditions. The licensee, with the concurrence of the vendor, found the conditions to pose no operational concern. Additionally, the licensee initiated WOs to replace the components with a new ICI flange clamp design during the next Unit 2 outage. The inspector found the licensee's disposition of the issue satisfactory.

The inspector observed portions of the preparations for reterminating ICI leads at the ICI flanges. At the end of the 1993 Unit 2 refueling outage, this activity resulted in the cross-connection of several leads, resulting indeterminate spatial data being received in the control room. This was documented in IR 95-05 and IR 95-18 (NCV 95-18-05).

The activity was conducted in accordance with I&C procedure 1400023, which had been recently revised to include more thorough checks of electrical terminations. The inspector observed the staging of figures and wiring diagrams at individual ICI flanges at the reactor vessel head and verified that maintenance personnel had properly identified individual ICI locations. Procedures were verified to be the most recent revisions. The inspector discussed the upcoming activity with I&C personnel as they prepared the ICI flanges for assembly. The inspector found that personnel were quite knowledgeable about the upcoming activity and the sequence of flange assembly.

3.1.3 On December 20, the inspector observed electrical maintenance troubleshoot and repair FCV-25-14 Control Room Outside Air North Intake per PWO 65/1587. This valve showed dual indication after repositioning closed during Unit 2 Safeguards Testing (a CIAS on either unit shifts both units CR HVAC envelopes to the recirc mode).

The inspector verified that this valve was properly logged out-of-service at 2:03 am on December 20 and isolated per the applicable Equipment Clearance Order. The work was performed by a Journeyman

Electrician assisted by a valve specialist. A shop supervisor was present to observe the work. The cause of the dual indication was identified as a misaligned L-shaped finger which did not allow the open indicating lamp to extinguish when the valve was in the full closed position. Each limit switch is repositioned by these L-shaped fingers which ride on the surface of the Limitorque rotors in the valve actuator. According to the valve specialist, a small change in the bend angle of the L-shaped finger affects limit switch actuation which is what occurred in this case. An adjustment to the applicable L-shaped finger was made and the valve actuator cover reinstalled for post-maintenance testing.

The inspector observed workers position themselves on the overhead safety-related ducting while performing work due to the restricted access for this valve. This included both the North Air Intake Duct and the exhaust duct of HVE-13B. The day after maintenance was completed, the inspector discussed this with the cognizant S&CE Engineer and several inspectors in the QC Maintenance department. Both the S&CE Engineer and QC inspectors were aware that ducting should not be used to support workers. The inspector reviewed numerous maintenance and administrative procedures with a Maintenance QC inspector and was not able to identify any instruction regarding this practice. The SCE Engineer was requested to evaluate whether these ducts were designed to withstand loading applied by workers in this fashion.

Post-maintenance testing verified that the valve position limit switches functioned properly. MOV motor amps were less than or equal to 130 percent nameplate rating, and that both the open and close stroke times were within specification.

3.2 Surveillance Observations (61726)

Various plant operations were verified to comply with selected TS requirements. Typical of these were confirmation of TS compliance for reactor coolant chemistry, RWT conditions, containment pressure, control room ventilation, and AC and DC electrical sources. The inspectors verified that testing was performed in accordance with adequate procedures, test instrumentation was calibrated, LCOs were met, removal and restoration of the affected components were accomplished properly, test results met requirements and were reviewed by personnel other than the individual directing the test, and that any deficiencies identified during the testing were

properly reviewed and resolved by appropriate management personnel. The following surveillance test was observed:

3.2.1 OP 2-0400050, Rev 16, "Periodic Test of the Engineered Safety Features."

On December 5, the licensee resumed the Integrated Safeguards Test Sections 8.4 through 8.7 and Sections 8.11 and 8.12. This procedure had an additional TC incorporated to recognize the current plant configuration. The sections of the test performed completed the Unit 2 surveillance requirements (see IRs 95-18 and 95-21 for additional information). These sections were:

- Section 8.4 Loss of Offsite Power with Integrated Safeguards (SIAS, CIAS and CSAS) Actuation Test using A and B Pumps with the 2AB Buses Aligned to the A Electrical Side.
- Section 8.5 Verification of 453 KW Load Rejection and LOOP with Concurrent SIAS Swing Bus Test.
- Section 8.6 Manual SIAS/CIAS/CSAS Actuation Verification.
- Section 8.7 Loss of Offsite Power without ESFAS Signal and Swing Pump LOOP Testing.
- Section 8.11 Plant Restoration.
- Section 8.12 Independent Verification of Test Instrumentation, Jumper/Lifted Lead Restoration and Plant Restoration Configuration.

The inspector attended the pretest briefing conducted by the operations manager and found it to be thorough and detailed. All test personnel were verified in attendance. Items covered included:

- Precautions and Limitations
- Past experiences and lessons learned. This included the problems encountered on October 12 when testing was secured due to the reverse power trip of the 2A EDG.
- Procedural control

- Use of effective communications
- Contingencies and test termination criteria

The inspector was in the control room during performance of Section 8.4 and had the following observations:

- The Test Coordinator and ANPS exercised excellent procedural control. The Test Coordinator advised the ANPS when to continue in the procedure after ensuring that all that the required verifications had been performed.
- The ANPS minimized the time that SDC was secured. On at least two occasions the ANPS announced to control room staff the time remaining to restore SDC before exceeding the 1 hour allowed in the procedure.
- The Test Coordinator ensured during performance of Appendix G Verification of Diesel Generator Trips that control room operators acknowledged each alarm. This verified that all DG trips generated not only a local but a control room alarm as well.
- An abnormally low running amperage reading was seen on the 2B CS Pump. An operator visually inspected the pump and neither saw nor heard any abnormal indications prior to it being secured. The pump was vented then restarted at which time operators verified all pump parameters were in the normal operating range. Two STARS were written to identify the cause of the air binding or inadequate venting and for Engineering to assess any potential equipment degradation or damage.
- Several area and process radiation monitoring instruments displayed possible malfunctions or failures. RC-26-14 Plant Vent and RC-26-66 Control Room Outside Air Int showed "HELP" and the RC-26-70 ECCS Wide Range Gas Monitor lamp marked "error" flashed intermittently. Other instruments were reporting numerical data, however, their green "operating" lamps was not illuminated. These included: RC-26-13 Plant Vent, RC-26-61 Control Room Outside Air Int, RC-26-70 ECCS Wide Range Gas Monitor, RC-26-90 Plant Vent Stack Rad Monitor and the RC-26-69 ECCS

Wide Range Gas Monitor. The inspector questioned both the NPS and Operations Manager as to whether these instrument indications were consistent with the current plant configuration, i.e. all plant electrical loads being carried by the EDGs. During restoration of Unit 2, operators discovered that a "reboot" of the affected radiation monitor software was required to shift control room ventilation from the emergency or recirculation mode to normal mode. STAR #951390A was written to investigate and document deficiencies.

On December 6, the inspector attended a meeting which addressed the above issues. I&C explained the following:

- Radiation monitoring instruments communicate with an RM-80 computer during normal operation. If RM-80 communications is interrupted, the instrument will attempt to reestablish the link. After 3 unsuccessful attempts, the "HELP" message locks in alerting operators of the problem. A backup battery supply is provided to maintain memory for short periods of time if power was lost.
- The green operating lamp indicates that the instrument is operating properly.

A similar problem involving one of the radiation monitoring instruments had occurred during Safeguards Testing in October. At that time STAR #951390 identified the cause as an inverter failure. However, in this instance, no inverter failure was observed.

On December 15, an Interim Engineering Disposition was issued by I&C to investigate and resolve these deficiencies. The potential causes of RM-26-14 and 66 flashing "HELP" were identified as a discharged battery pack, bad CPU RAM chip, or bad Metal Oxide Varistor across the RM-80 ac input line. The loss of the green operating status LED lights on RM-23 units RM-26-2, 13, 61, 66, 69, 70 and 90 indicated either a check source test failure, loss of count input, loss of flow, filter not moving, torn filter, or a loss of power. The vendor informed the licensee that due to the configuration of some of the firmware the database is reloaded but, an automatic restart of the pumps does not occur. The licensee's Interim Engineering Disposition will:

- Perform battery load test for RM-26-14 & 66
- Perform power down test for affected Rad monitors.
- Record existing firmware versions and revision levels for all radiation monitors in the RC-11 loop.

The licensee has completed the battery load test detailed above. Both battery packs were found below the allowed 3.0 VDC specified in I&C Procedure No. 2-1220057, Rev 3, "Functional Testing of the RM-80 Power Supply Assemblies." This surveillance test is currently performed every 18 months and had been satisfactorily completed this year for both failed Rad monitors. The I&C Supervisor intends to recommend that all backup batteries be replaced and is considering increasing the frequency of this surveillance test.

The licensee completed Safeguards Testing on December 6 with no safeguards equipment failures noted. A list of equipment deficiencies identified during Safeguards Testing is provided below:

Component	Problem	WR Number
V2516	Indicated dual position when closed	95020540
V2515	Indicated dual position when closed	95020542
2B LPSI Pump	Ammeter pegged high upon pump start and remained there after pump was secured	95020544
HVA/ACC-3B	This control room air conditioner shut down due to high discharge pressure during test	95020545
V3414	Valve leaking by	95020546
RCP 2A2 Lift Oil Pump B	Pump shut off for no apparent reason	95020547

Additionally the following items were addressed:

- RM-23's A number of Rad monitors did not have indicating lights or were flashing, a help message after the LOOP. This problem was also encountered during the initial safeguards test. STAR #951390A was generated to address this problem and is currently being worked on by the I&C system supervisor. A list of rad monitors that were affected was also given to I&C. These were: RC-26-66, RC-26-14, RC-26-2, RC-26-61, RC-26-13 and RC-26-70 (see above).
- 2B CS Pump This pump was found to be air bound following the start for the test. A STAR was generated to address this problem.
- Train B ECCS The B train ECCS ventilation flow indicated 25,500 CFM during the test. This is less than the required minimum flow of 27,000 CFM. This Technical Specification requirement was verified during the initial safeguards test performed on October 12, 1995. Section 8.4 was reperformed only to get the plant in a lineup to allow the remaining portions of the tests to be completed. The System Engineer was notified. The plant was in mode 5 at the time of the test. ECCS ventilation is not required until mode 4. Surveillance testing will verify this at a later time.

The inspector found that the licensee's overall performance of this complex, infrequently performed surveillance test was good with one reservation, i.e., the operations personnel that the inspector queried about the RM-23s were unable to explain system behavior following a LOOP. The Operations Manager said that a STAR had been written to address this in operator training.

3.3 Followup of Maintenance LERs (92700)

3.3.1 (Closed) LER 389/95-003, "Missed Technical Specification Scheduled Surveillance Due to Procedural Deficiency."

This surveillance was missed because the surveillance conducted by the technical support area did not require any independent

verification of the projected due date. The inspector verified that the licensee had completed all corrective actions listed on the LER which also included verification that this and other plant departments had implemented procedural changes to ensure independent reviews of projected schedules. These actions appear satisfactory to prevent event repetition.

- 3.3.2 (Closed) LER 335/95-001, "1A3 4160 Volt Bus Load Shed During Replacement of Failed 2X-5 Relay Due to Procedural Deficiency."

The inspector verified that the corrective action to add a checklist to enhance the plant policy for work on sensitive systems that could cause a plant trip had been accomplished. This was the only action open when the LER was submitted. This action appears adequate to prevent recurrence of this event.

- 3.4 Followup on Previous Maintenance Findings (92902)

- 3.4.1 (Closed) VIO 335/95-15-06, "Failure to Follow Maintenance Procedure Steps as Work Was Completed."

The licensee responded to this violation in a letter dated November 15, 1995. Their corrective actions included:

- Signing of procedure steps.
- Testing of electrical circuitry.
- Meeting with electrical maintenance personnel to review the event and emphasize management expectations.
- Meetings with all maintenance employees to stress strict procedural adherence.
- Adopted a policy of verbatim procedural compliance.

The inspector verified that the above stated actions had been satisfactorily completed. This appears adequate to prevent repetition.

- 4.0 Engineering Support (37001)

4.1 10 CFR 50.59 Safety Evaluation Program

This inspection was conducted to ascertain whether the licensee was implementing a safety evaluation program that conforms to Title 10 of the Code of Federal Regulations, Section 50.59, 10 CFR, Changes, Tests, and Experiments. Engineering assessments of operability on non-conforming or degraded conditions performed by the engineering staff was also reviewed by the inspector. Criteria determining compliance with the 10 CFR 50.59 Safety Evaluation and operability assessment program controls were identified by reviewing the following documents.

- FP&L Guidance for Performing 10 CFR 50.59 Safety Evaluations, Revision 0
- Administrative Procedure No. 5769, 10 CFR 50.59 Safety Evaluation Guidelines, Revision 2
- QI 5-PR/PSL-1, Preparation, Revision, Review/Approval of Procedures, Revision 66
- Administrative Procedure No. 10124, Control and Use of Jumpers and Disconnected Leads, Revision 35
- QI 3-PR/PSL-1, Design Control, Revision 36
- ENG QI 1.0, Design Control, Revision 1
- ENG QI 1.1, Engineering Package, (EP), Revision 0
- ENG QI 1.2, Minor Engineering Package, (MEP), Revision 0
- ENG QI 2.0, Engineering Evaluations, Revision 0
- ENG QI 2.1, 10 CFR Screening/Evaluation, Revision 0
- ENG QI 2.3, Operability Determinations, Revision 0
- FP&L Nuclear Engineering Training Manual, 10 CFR 50.59, Parts 1 and 2

The inspector reviewed the above documents and verified that procedural guidance had been established for implementing the

From: William McNulty, OIR 2
To: LJW2 Williams, R 2
Date: 10/3/97 3:52pm
Subject: 2-95-034

Permission is granted to release the synopsis of this investigation

.CC: PAT1

AIR
~~DATA~~
Patricia

~~RAMB~~
H/3

13 + 0 the circumference needed

arranging things for to clear out water
withstanding circumference in the
of 2 10/19/97

the fence 0197-060

2/11/98
08:00

ROSS, DIXON & MASBACK, L.L.P.

601 PENNSYLVANIA AVENUE, N.W.
NORTH BUILDING
WASHINGTON, D.C. 20004-2668
(202) 662-2000
FACSIMILE (202) 662-2180

CALIFORNIA OFFICE
5 PARK PLAZA
SUITE 1200
IRVINE, CALIFORNIA 92614-0629
(714) 622-2700
FACSIMILE (714) 622-2739

REBECCA L. ROSS
TELEPHONE: (202) 662-2020
EMAIL: RROSS@RDMLAW.COM

May 7, 1998

VIA FACSIMILE & FIRST CLASS MAIL

Carolyn F. Evans, Esq.
US Nuclear Regulatory Commission
Region 2
Atlanta Federal Center
61 Forsyth Street, S.W.
Suite 23T85
Atlanta, GA 30303

Re: NRC OI Investigation Case No. 2-96-034

Dear Ms. Evans:

As you know, I represent the FPL engineer who is the subject of the NRC's Office of Investigations Case No. 2-95-034. I understand that the NRC has received a FOIA request for all material relating to that investigation. I also understand that OI may have previously placed a "synopsis" of its investigation in Case No. 2-95-034 in the agency's Public Document Room. As you and I have discussed, we object to the public release of any information relating to Case No. 2-95-034. Moreover, we request that the OI synopsis be withdrawn from the Public Document Room, if it has previously been placed there.

Any release of material in this matter would be an entirely unwarranted invasion of the privacy of the FPL engineer who was the subject of Case No. 2-95-034. Moreover, any such release would be contrary to the representations and promises given the FPL engineer by the NRC in this matter, including those representations made by Mr. Luis A. Reyes in his February 23, 1998 letter to the FPL engineer.

A/A

ROSS, DIXON & MASBACK, L.L.P.

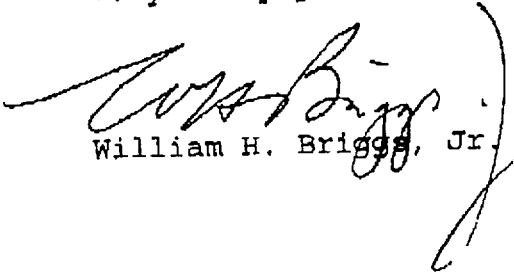
Carolyn F. Evans, Esq.
May 7, 1998
Page 2

In our view the OI investigation in Case No. 2-95-034 reached an entirely incorrect conclusion. Although we requested OI to release to us the entire report so that we could refute false charges against the FPL engineer who is the subject of the report, that request was denied. We never received any evidence of wrongdoing from OI, and we do not believe that any such evidence exists.

After the OI report was issued and our request to receive the entire OI report was denied, the FPL engineer submitted detailed, confidential, sworn evidence to the NRC denying any and all allegations of wrongdoing. The NRC staff carefully considered the entire OI Report and the responsive material submitted by the FPL engineer. Based upon that review, the NRC staff decided that enforcement action against the FPL engineer was not warranted and the matter should be closed.

In the interest of fairness and to protect the unblemished reputation of the FPL engineer, we request that the NRC keep all aspects of Case No. 2-95-034 out of the public record -- including the OI synopsis. However, in the event the NRC elects to release any material relating to Case No. 2-95-034, including the OI synopsis, in the interest of accuracy and fairness, we ask that this letter also be placed in the public record.

Very truly yours,


William H. Briggs, Jr.

WHB/jmh

EXHIBIT 17

A/S
A/S



Florida Power & Light Company, P. O. Box 14000, Juno Beach, FL 33408-0420
Law Department

EXEMPT FROM DISCLOSURE
10 CFR 2.790(a)(6) and (a)(7)

Writer's Direct Dial
(561) 691-7126

August 13, 1997

VIA FEDERAL EXPRESS

Craig T. Tate
U.S. Nuclear Regulatory Commission
Office of Investigations
Region II Office
101 Marietta St.
Suite 2900
Atlanta, GA 30323-0199

Re: OI Case No. 2-95-034

Dear Mr. Tate:

This letter and its enclosures are submitted on behalf of my clients Richard L. Dietz, Krishan K. Mohindroo, James Scarola, and Robert W. Winnard, all of whom were interviewed by you on March 19, 1997, in connection with the above-referenced investigation.

On July 18, 1997, I received from you by telecopy draft reports of interviews with my clients, which purport to summarize the interviews. My clients have reviewed the reports of interviews, and their corrections are indicated on the enclosed reports of interviews. Please ensure that their comments are incorporated on the final versions of the interview summaries that are placed in the investigative file. In addition, please provide me with a copy of each final report of interview after the changes have been incorporated.

Although you recorded each of the interviews with a microcassette tape recorder, and you agreed that each of my clients would have an opportunity to review a transcript of their interview, you later informed me that a delivery service used by NRC lost the tapes prior to transcription. Each of my clients believes that the interview summaries are not a fully adequate substitute for the tape transcripts. In the event that the tapes are located at a later date, I hereby request that my clients be provided an opportunity to review the transcripts of their interviews and to make corrections to those transcripts.

This letter and its enclosures contains confidential personnel information that if disclosed, would constitute a clearly unwarranted invasion of personal privacy. In addition, this information was gathered for the purposes of an official government investigation. Accordingly, this letter and

2-95-034

EXHIBIT 17

PAGE 1 OF 2 PAGE(S)

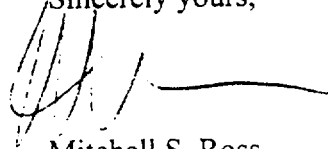
Craig T. Tate
August 13, 1997
Page 2

~~EXEMPT FROM DISCLOSURE
10 CFR 2.790(a)(6) and (a)(7)~~

its enclosures are exempt from disclosure pursuant to 10 CFR 2.790(a)(6) and (a)(7). Please ensure that this letter and its enclosures are not disclosed outside the NRC or placed in the NRC's Public Document Room.

Please contact me should you have any questions concerning this letter or its enclosures.

Sincerely yours,

A handwritten signature in black ink, appearing to be "M. S. Ross", followed by a horizontal line extending to the right.

Mitchell S. Ross
Attorney

Enclosures

ALLEGATION REPORT

CASE FILE NO: RII-95-A-0200

FACILITY: St. Lucie

ALLEGER: DELETED - SEE EICS
ADDRESS:

CONCERN NO: (1)
DOCKET NO 50-335,50-389
DATE RCVD: 12/19/95

HOME PHONE: ()
WORK PHONE: ()

EMPLOYER:
TITLE:

MANDATORY ADVISEMENT: N

WHAT IS THE ALLEGATION?

provided to support denial of the potential violation identified during exit interview

WHAT IS THE REQUIREMENT/VIOLATION? TS section

WHERE IS IT LOCATED?

WHEN DID IT OCCUR?

the Plant Manager the document.

WHO IS INVOLVED/WITNESSED?

J. Scarola, Plant Manager

HOW/WHY DID IT OCCUR? Occurred because Plant Management wanted to demonstrate that

WHAT EVIDENCE CAN BE EXAMINED? Facsimile of

DID THE INDIVIDUAL EXPRESS A CONCERN TO THE LICENSEE? No.

WHAT IS THE STATUS OF THE LICENSEE'S ACTIONS?

WHAT IS THIS AN ISSUE OF? (SAFETY)

Ask all above questions, do not leave any blanks. Complete one sheet for each issue. Forward this form to: RII/RAC, P.O. BOX 845 Atlanta, GA 30301. Do not retain any file copies subsequent to receipt by RAC. RAC phone numbers are (404) 331-4193 & 331-4194.

** ADVISE ALLEGERS OF THE 180 DAY DOL REPORTING REQUIREMENT FOR DISCRIMINATION COMPLAINTS - (INITIAL) YES _____, NO _____

Information in this record was deleted in accordance with the Freedom of Information Act, exemptions FOIA- 7C, 7D, 98-162

DATE PREPARED:

Ex 7d

B11

ALLEGATION REPORT

CONTINUATION SHEET

CASE FILE NO: RII-95-A-0200

FACILITY: ST LUCIE

ADDITIONAL INFORMATION

Followup of St. Lucie Allegation RII-95-A-0172 resulted in the following findings:

- (1) The allegation was partially substantiated for the following safety evaluations which failed to provide documented details sufficient to demonstrate the validity of the conclusions drawn concerning radiological consequences of the item of concern. [REDACTED]

- (2) FPL management concurred with the inspection findings and provided revision 2 of safety evaluation [REDACTED] along with a draft calculation [REDACTED]

- (3) As part of the inspection activity four safety evaluations were selected for [REDACTED]

- (4) FP&L provided objective evidence of [REDACTED] performed reviews of 3 Safety Evaluations

- (5) [REDACTED]

- (6) [REDACTED]

ACTION REQUIRED

1. ARB Required

PREPARED BY: [REDACTED]

DATE PREPARED: [REDACTED]

7C

7C

ARZB

Mollen
Merschhoff
McNulty
Myc
-andis
Evans
Sedironda

December 21, 1995

INDEX OF CONCERNS
ST LUCIE
RH-95-A-0200

NO.	DESCRIPTION	LOCATION
1/1	<p>[REDACTED]</p> <p>PROVIDED TO SUPPORT DENIAL OF THE POTENTIAL VIOLATION IDENTIFIED DURING EXIT INTERVIEW OF [REDACTED] WAS DATED [REDACTED] BUT WAS ACTUALLY APPROVED AND [REDACTED] FOR [REDACTED]</p>	Date: 12/20/95 DRS ALLEG RPT
ACTION: <i>OI initiate investigation</i>		
CLOSURE:		
2/		Date: ___/___/___ Page: ___ para: ___
ACTION:		
CLOSURE:		
3/		Date: ___/___/___ Page: ___ para: ___
ACTION:		
CLOSURE:		
4/		Date: ___/___/___ Page: ___ para: ___
ACTION:		
CLOSURE:		
5/		Date: ___/___/___ Page: ___ para: ___
ACTION:		
CLOSURE:		

34
1+
7c

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in accordance with the Freedom of Information
Act, exemptions 7C, 7D
FOIA- 98-162

B/2

B/3

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 7C, 1D
FOIA- 98-162

EXHIBIT 1

LIMITED DISTRIBUTION -- NOT FOR PUBLIC DISCLOSURE

INVESTIGATION STATUS RECORD

Case No.: 2-95-034 Facility: ST. LUCIE NUCLEAR PLANT
Allegation No.: RII-95-A-0200 Case Agent: TATE
Docket Nos.: 050-335/389 Date Opened: 12/29/95
Source of Allegation: ALLEGER (A) Priority: HIGH (S. EBNETER, RA)
Notified by: EICS Staff Contact:
Category: WR Case Code: RP
Subject/Allegation: ALLEGED FALSIFICATION OF INFORMATION PROVIDED TO THE NRC
REGARDING EVALUATION OF [REDACTED]

7C

Remarks:

Monthly Status Report:

12/29/95: [REDACTED] Florida Power and Light Company (FP&L), St. Lucie plant manager, provided backdated [REDACTED] to demonstrate to NRC inspectors that FP&L had reviewed safety evaluation regarding [REDACTED] performance. The [REDACTED] performance issue was cited by NRC inspectors on [REDACTED] during an exit interview as a violation of a plant technical specification. The licensee denied the violation and on [REDACTED] produced a copy of the [REDACTED] indicating that the evaluation was performed on [REDACTED] [REDACTED] claims that the [REDACTED] were [REDACTED]

7D

7C

7C

Case No. 2-95-034

EXHIBIT 1

7D partitions

EXHIBIT 3

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 7C
FOIA- 98-162

B14



UNITED STATES
 NUCLEAR REGULATORY COMMISSION
 REGION II
 101 MARIETTA STREET, N.W., SUITE 2800
 ATLANTA, GEORGIA 30323-0199

February 22, 1996

MEMORANDUM TO: Craig Tate, Special Agent, Office of Investigations
 THRU: Kerry Landis, Chief, Reactor Projects Branch 3,
 Division of Reactor Projects
 FROM: Mark Miller, Senior Resident Inspector, St. Lucie *panel for 2/22/96*
 SUBJECT: STATUS OF [REDACTED]
 [REDACTED] AT ST. LUCIE

Per your prior request, on February 20, I performed a cursory review of the status of [REDACTED] at St. Lucie. The review consisted of discussions with the [REDACTED] and a review of documentation.

EX 7C

The review indicated that, while [REDACTED] were current for [REDACTED] (currency indicating that [REDACTED]) backlog exists for the last three months of [REDACTED]. The oldest backlogged [REDACTED] dated to [REDACTED] and [REDACTED] from the months of October, November, and December were in various stages of completion (ranging from raw notes which required typing and formatting to [REDACTED]).

EX 7C

The [REDACTED] was open and forthcoming regarding the backlog, indicating to me that the backlog was the result of significantly increased [REDACTED] in the [REDACTED]. This increase in activity was known to the NRC and was the result of a shift to a verbatim compliance policy at the site which necessitated the upgrading of large volumes of procedures.

EX 7C

Please do not hesitate to contact me if I may be of further assistance.

Docket Nos. 50-335 and 50-389
 License Nos. DPR-67, NPF-16

CONTACT: M. Miller, SRI, St. Lucie
 (407) 464-7822

2-95-034

EXHIBIT 5
 PAGE 1 OF 1 PAGE(S)

ARB MEETING

MARCH 14, 1996

RII-95-A-0200

ST. LUCIE

(OI TRANSCRIPT OF [REDACTED])

7c

ARB DETERMINED THE FOLLOWING ISSUES.

4 7d
* 7c

1. [REDACTED] ALLEGED DECEPTIVE PRACTICE BY THE LICENSEE IN PROVIDING [REDACTED] TO THE NRC INSPECTOR. THE LICENSEE IS USING UNVERIFIED ASSUMPTIONS IN CONDUCTING 10 CFR 50.59 ANALYSES.

AP: OI COORDINATE WITH OGC TO DETERMINE MATERIALITY OF THE ALLEGATION.

LICENSEE REFERRAL: NO

OI/AP: YES (REFER TO OI CASE NO. 2-95-034)

DOL/AP: NO

COMPLETION DATE: OI TO COORDINATE WITH OGC BY 160 days

2. THE LICENSEE IS USING UNVERIFIED ASSUMPTIONS IN CONDUCTING 10 CFR 50.59 SAFETY EVALUATIONS.

AP: DRS INSPECT THE QUALITY OF LICENSEE'S 50.59 EVALUATIONS.

INSPECTION SCHEDULED [REDACTED]

ASSIGNED TO DRS/CASFO. EX 7c

LICENSEE REFERRAL: NO

OI/AP: YES (REFER TO OI CASE NO. 2-95-034)

DOL/AP: NO

COMPLETION DATE: [REDACTED]

ARB ATTENDERS 3/14/96			
ORA	DRP	DRS	OI
<input checked="" type="checkbox"/> IGNATONIS <input checked="" type="checkbox"/> EVANS	<input checked="" type="checkbox"/> JOHNSON <input checked="" type="checkbox"/> LANDIS	<input checked="" type="checkbox"/> GIBSON (INFO PROVIDED TO AND DISCUSSED WITH MR. GIBSON ON 3/15/96)	<input checked="" type="checkbox"/> McNULTY

ARB MEETING MINUTES PREPARED BY: Al Ignatonis *ajal*

ARB MEETING MINUTES APPROVED BY: William McNulty, OI *WMA*

ARB MEETING MINUTES APPROVED BY: Jon Johnson

Information in this record was deleted in accordance with the Freedom of Information Act, exemptions 7c, 7d

ARB MEETING MINUTES APPROVED BY: Albert Gibson *AG-APG*

FOIA- 98-162

8/5

ARB MEETING
12/21/95

7D
[REDACTED]

WARNING
THIS DOCUMENT CONTAINS
SENSITIVE ALLEGATION INFORMATION
IT CAN NOT BE DISSEMINATED
OUTSIDE THE NRC

RII-95-A-0200 12/20/95 ST LUCIE 50-335

[REDACTED] PROVIDED TO SUPPORT
DENIAL OF THE POTENTIAL VIOLATION IDENTIFIED DURING EXIT INTERVIEW OF [REDACTED]
WAS DATED [REDACTED] BUT WAS ACTUALLY APPROVED AND [REDACTED] ON [REDACTED]

7C

AP: OI OPEN CASE

LICENSEE REFERRAL: NO
OI/AP: YES
DOL/AP: NO
GENERIC IMPLICATIONS: NONE
COMPLETION DATE: 6 MONTHS

ARP ATTENDEES 12/21/95			
ORA	DRP	DRS	DNMS
<input checked="" type="checkbox"/> JURYC <input checked="" type="checkbox"/> EVANS <input checked="" type="checkbox"/> DEMIRANDA	<input checked="" type="checkbox"/> MERSCHOFF <input checked="" type="checkbox"/> LANDIS <input checked="" type="checkbox"/> MELLON	<input checked="" type="checkbox"/> GIBSON	
			OI
			<input checked="" type="checkbox"/> MCNULTY

ARP MINUTES PREPARED BY: Oscar DeMiranda _____

ARP MINUTES APPROVED BY: Ellis Merschhoff _____

Ex 7d+7c

ALLEGATION REVIEW BOARD MEETING

DATE: 12/21/95

★ WARNING ★
 THIS DOCUMENT CONTAINS SENSITIVE ALLEGATION INFORMATION
 IT CAN NOT BE DISSEMINATED OUTSIDE THE NRC

ALLEGATION NO: 95A0200 FACILITY: St. Lucie

DESCRIPTION OF ALLEGATION:

[REDACTED] backdated 7C

ACTION PENDING: _____

LICENSEE REFERRAL:
 OI/AP: YES
 RECOMMENDED PRIORITY: HIGH
 SAFETY SIGNIFICANCE:
 DOLZAP:
 GENERIC IMPLICATIONS:
 COMPLETION DATE:

ARB ATTENDEES				
ORA	DRP	DRS	DNMS	OI
<input type="checkbox"/> EBNETER <input type="checkbox"/> REYES <input checked="" type="checkbox"/> RYRC <input checked="" type="checkbox"/> EVANS <input checked="" type="checkbox"/> DEMIRANDA <input type="checkbox"/> IGNATONIS <input type="checkbox"/> JENNIS <input type="checkbox"/> WATSON <input type="checkbox"/> BOLAND <input type="checkbox"/> SLACK	<input checked="" type="checkbox"/> MERSCHOFF <input type="checkbox"/> JOHNSON <input type="checkbox"/> CRLENJAK <input type="checkbox"/> SKINNER <input checked="" type="checkbox"/> LANDIS <input type="checkbox"/> SHYMLOCK <input type="checkbox"/> BELISLE <input type="checkbox"/> LESSER <p style="text-align: center;"><i>Mellen</i></p>	<input type="checkbox"/> GIBSON <input type="checkbox"/> JAUDON <input type="checkbox"/> VERRELLI <input type="checkbox"/> CASTO <input type="checkbox"/> CHRISTENSEN <input type="checkbox"/> FREDRICKSON <input type="checkbox"/> BARR <input type="checkbox"/> PEEBLES	<input type="checkbox"/> MALLETT <input type="checkbox"/> COLLINS <input type="checkbox"/> DECKER <input type="checkbox"/> MCALPINE <input type="checkbox"/> HOSEY <input type="checkbox"/> POTTER <input type="checkbox"/> WOODRUFF	<input checked="" type="checkbox"/> MCNULTY <input type="checkbox"/> ROBINSON <input type="checkbox"/> VORSE <input type="checkbox"/> TATE <input type="checkbox"/> DOCKERY

ARB MINUTES PREPARED BY: *[Signature]*

ARB MINUTES APPROVED BY: _____

EXHIBIT 4

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 98-162
FOIA- _____

Case No 2-95-034

B/C

EXHIBIT 4

TO: W. J. McNulty

THRU: C. A. Casto

FROM: J. W. York

DATE: July 9, 1996

SUBJECT: Allegation Inspection Update

This correspondence is in reference to allegation RII-95-A-0200 assigned to Craig Tate of your group. This allegation has two parts one concerning deceptive practices for providing [redacted] to an NRC inspector. During my inspection at the St. Lucie site during the week of [redacted] the SRI and I tried to duplicate this problem but were unable to determine if there were other examples of the deceptive practice discussed in the allegation. Since that inspection we have reviewed [redacted] concerning the [redacted] and cannot find any requirements for the time [redacted]. Therefore, a violation of procedure does not exist. This was discussed with the St. Lucie [redacted] and the Branch Chief and there were no disagreements.

The second part of the allegation dealt with adequacy of safety evaluations and this inspection was completed the week of June 29. Some of the results are currently being used in escalated enforcement panel meeting.

In summary, [redacted] did receive [redacted]. After requesting [redacted], the licensee provided a [redacted]. We inspected to determine if a violation occurred and whether there were other examples of [redacted]. Our inspectors concluded that a violation did not occur. Further, we could neither substantiate nor unsubstantiate further examples of [redacted] without exposing the allegation.

EXHIBIT 5

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 7C
FOIA- 98-162

B/7

TO: W. J. McNulty

THRU: C. A. Casto

FROM: J. W. York

DATE: July 17, 1996

W. J. McNulty 7/17/96
John W. York

SUBJECT: Allegation Inspection Update (Correction to Information)

CORRECTION-On July 9, 1996, the message listed below was sent to you. [redacted] the inspector who received the [redacted] discussed in the allegation stated to me that the information about [redacted] that they were [redacted] is incorrect. The correct information is that [redacted] were [redacted]

EX7C

This correspondence is in reference to allegation RII-95-A-0200 assigned to Craig Tate of your group. This allegation has two parts one concerning deceptive practices for providing [redacted] to an NRC inspector. During my inspection at the St. Lucie site during the week of [redacted] the SRI and I tried to duplicate this problem but were unable to determine if there were other examples of the deceptive practice discussed in the allegation. Since that inspection we have reviewed [redacted]

EX7C

EX7C

[redacted] concerning the [redacted] and cannot find any requirements for the time [redacted] Therefore, a violation of procedure does not exist. This was discussed with the St. Lucie [redacted] and the Branch Chief and there were no disagreements.

EX7C

The second part of the allegation dealt with adequacy of safety evaluations and this inspection was completed the week of June 29. Some of the results are currently being used in escalated enforcement panel meeting.

In summary, [redacted] did receive [redacted] After requesting [redacted]

EX7C

We inspected to determine if a violation occurred and whether there were other examples of [redacted] Our inspectors concluded that a violation did not occur. Further, we could neither substantiate nor unsubstantiate further examples of [redacted] without exposing the allegation.

cc: C. Smith

EXHIBIT 5

PAGE 1 OF 1 PAGE(S)

2-95-034

Refer to R41



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
101 MARIETTA STREET, N.W., SUITE 2900
ATLANTA, GEORGIA 30323-0199

July 26, 1996

MEMORANDUM TO: Bruno Uryc, Director
Enforcement and Investigation Coordination Staff
THRU: Albert F. Gibson, Director
Division of Reactor Safety
FROM: *for* Charles A. Casto, Chief
Engineering Branch
Division of Reactor Safety
SUBJECT: RII-95-A-0200-PART TWO-ASSUMPTIONS USED FOR SAFETY
EVALUATIONS

AMJ
7/25/96
[Signature]

This allegation involved two parts. The first part dealt with the allegation that a deceptive practice was used by the licensee in providing ~~_____~~ to an NRC inspector. This part will require followups by the Region II Office of Investigation. The second part dealt with the allegation that safety evaluations performed at St. Lucie pursuant to the requirements of 10 CFR 50.59 are often based upon unsubstantiated assumptions. The Division of Reactor Safety performed a review and independent inspection of this concern. Our inspection regarding this matter and our findings are documented in the enclosures to this memorandum. Enclosure 1 is the Allegation Evaluation Report which summarizes the findings, and the inspection results are documented in Enclosure 2, NRC Inspection Report Nos. 50-335/96-12, 389/96-12, paragraph E1.1.

7C

Based on the information provided, we were not able to substantiate the allegations.

This concludes the staff's activities regarding this matter and the allegation is considered closed. If you have any questions, please contact me.

- Enclosures: 1. Allegation Evaluation Report
2. Inspection Report Nos. 50-335/96-12 and 50-389/96-12

cc: W. McNulty, OI
O. DeMiranda, EICS

Ex 7c

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 7C
FOIA- 98-162

B/S

ALLEGATION EVALUATION REPORT

ALLEGATION RII-95-A-0200

ST. LUCIE NUCLEAR PLANT

DOCKET NOS. 50-335 & 389

ALLEGATION:

There were two parts to this allegation. The first part dealt with the allegation that a deceptive practice was used by the licensee in providing [REDACTED] to an NRC inspector. This part of the inspection is being handled by the Region II Office of Investigation Group. The second part of the allegation is addressed in this correspondence. In the second part, the allexer stated that safety evaluations performed at St. Lucie pursuant to the requirements of 10 CFR 50.59 are often based upon unsubstantiated assumptions. 7C

DISCUSSION:

In evaluating the allegation, the inspectors chose a sample of twelve 10 CFR 50.59 safety evaluations. In some of the evaluations more than one inspector and more than one engineering discipline were used for the review. Inspectors with I&C, operations, fire protection, welding, and materials selection expertise were used to examine these evaluations. A diverse subject list of recent safety evaluations were selected and are as follows.

- Cracking of Westinghouse Alloy 600 Mechanical Steam Generator Plugs.
- Temporary Relocation of Class Break on Intake Cooling Water.
- Installation of Temporary Fire Penetration Seals in Pipe Barrier BW064.
- Temporary Installation of Strain Measuring Devices on the Pressurizer Relief Valve Discharge Piping.
- Safety Injection Tank (SIT) Discharge/Loop Check Valve Stroke Test-Unit 1.
- Freeze Seal Application for V3651 and V3652 on the 1B Shutdown Cooling Return Line.
- Safety Evaluation For Boraflex Blackness Testing Results.
- Wide Range Nuclear Instrumentation Temporary System Alteration.
- Temporary Configuration for CEDMCS (Control Element Drive Mechanism Control System) Cooling System and Enclosure, Unit 2.
- Safety Evaluation for Inoperable Fire Pump

- St. Lucie Unit 1 Refueling Equipment Underload and Overload Settings.
- Operation With Diesel Oil Fuel Pump 2B Discharge Isolation Valve V17216 Closed.

Problems were identified with the last four evaluations.

In the example for the CEDMCS temporary configuration for the cooling system and enclosure, a 10 CFR 50.59 safety evaluation had never been performed. This enclosure had no engineering documentation and was not on any of the plant drawings. The second example involved the installation of a portable fire pump as a compensatory measure for an out of service permanently installed fire pump. No 10 CFR 50.59 screening or evaluation was performed. In the third example, the licensee performed a 10 CFR 50.59 screening but an error was made on the question concerning the change to the set point values representing a change to procedures as described in the FSAR. In the fourth example, a 10 CFR 50.59 safety evaluation was prepared to allow operation of an EDG with a manual isolation valve closed between the day tank and the outside fuel supply because of a leak. Compensatory actions were used to minimize losing fuel to the EDG in an accident situation. This increased the risk of losing the EDG and added several additional failure modes. However, the licensee failed to evaluate this condition as an Unreviewed Safety Question.

All of these examples have been identified as apparent violations in Inspection Report 50-335,389/96-12 (report attached).

Conclusion:

Even though problems were identified with the 10 CFR 50.59 safety program implementation, the allegation was not substantiated. There were no examples noted where unsubstantiated assumptions were present.

EXHIBIT 11

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B19

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WRITER'S DIRECT DIAL

(202) 662-2063



September 27, 1996




VIA FACSIMILE & FIRST CLASS MAIL

Nuclear Regulatory Commission
Office of Investigations
Attention: Craig Tate
101 Marietta Street
Suite 2900
Atlanta, Georgia 30323

Re: OI investigation


Dear Mr. Tate:

This will confirm our telephone discussion of this morning.
I am representing  in connection with an OI
investigation 


As I told you this morning,  wants to fully cooperate
with your investigation. If there are any documents that you
want, any further interviews that you need, or any other
information that he can provide you, please let us know. 

2-95-034

EXHIBIT 11
PAGE 1 OF 2 PAGE(S)

ROSS, DIXON & MASBACK, L.L.P.

Nuclear Regulatory Commission
Office of Investigations
Attention: Craig Tate
September 27, 1996
Page 2

[REDACTED] 7C

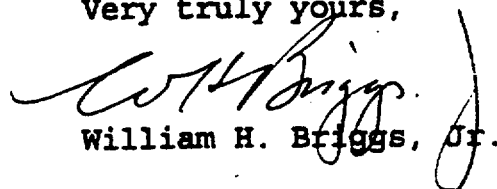
I also requested that you provide me with copies of the transcripts of the two interviews that you had with [REDACTED]. You indicated that you would let me know whether that request could be granted or whether OI will only permit [REDACTED] to review these transcripts. 7C

Finally, we discussed your suggestion that [REDACTED] submit to a polygraph examination. I informed you that I did not know much about lie detectors, except that most courts don't admit them into evidence because, as I understand it, they are not very reliable. You indicated that you were not an expert on lie detectors, but that you believed that most federal agencies did use them and that if the operator was well qualified you thought the results would be reliable. I asked you to provide any written articles, reports, policies or procedures that you had on lie detectors. 7C

I will look into the polygraph issue. I will talk to some prosecutors with whom I once worked, will do some research on the reliability of these tests, and will obviously carefully review anything you can provide me on these tests, how OI uses them, and any other information that you have. I will get back to you as soon as I gather this information and have a chance to talk it over with [REDACTED]. 7C

Thank you for taking time to talk with me this morning. Please do not hesitate to call me if my letter does not accurately reflect what we talked about or if there is anything you would like to discuss about your on-going investigation.

Very truly yours,


William H. Briggs, Jr.

WHB/jmh

0114703.01

7C

EXHIBIT 12

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B110

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WRITER'S DIRECT DIAL

NOT ADMITTED IN D.C.

(202) 662-2063

October 10, 1996

Nuclear Regulatory Commission
Office of Investigations
Attention: Craig Tate
101 Marietta Street
Suite 2900
Atlanta, Georgia 30323

Re: OI investigation [redacted] 7C

Dear Mr. Tate:

This will follow up on my September 27, 1996 letter to you concerning the above investigation. In that letter I promised to do some research on polygraph examinations and to respond to your request that [redacted] submit to a polygraph in order to demonstrate his innocence in this matter. 7C

Over the past two weeks I have read a number of articles discussing the reliability of polygraphs and have talked to several colleagues who are prosecutors or former prosecutors and who have experience with lie detectors. Based upon this research and these discussions, I have significant doubts about the reliability of polygraphs -- particularly in circumstances like this when the subject is innocent and the stakes of the test are high. Although I am always open to considering any contrary evidence you can offer, based upon what I know now, I cannot agree for [redacted] to submit to a lie detector anymore than I could agree to let you decide this matter by flipping a coin. 7C

2-95-034

EXHIBIT 12

PAGE 1 OF 16 PAGE(S)

7C. [Handwritten signature]

ROSS, DIXON & MASBACK, L.L.P.

Nuclear Regulatory Commission
Office of Investigations
Attention: Craig Tate
October 10, 1996
Page 2

As I understand it, polygraphs purport to determine ~~deceptiveness~~ deceptiveness by measuring the subject's physical responses to questions -- such, for example, increased heart beat, respiration, and skin resistance (perspiration). All these physical responses are also greatly affected by stress, anxiety, and nervousness. When the consequences of failing the test are great, stress, anxiety and nervousness are also great. These stress levels can produce the same results on a polygraph as deceptive answers. A number of experts have conducted studies that show these increased stress levels greatly increase the likelihood that an innocent person will "fail" the "lie detector." See, e.g., C. Patrick & W. Iacono, "Psychopathy, Threat, and Polygraph Test Accuracy," Journal of Applied Psychology, (1989), Vol. 74, No. 2, 347-355 (Attachment A); B. Kleinmuntz & J. Szucko, "A field study of polygraphic lie detection," Nature, (March 29, 1984), Vol. 308, 449-450 (Attachment B).

Here the consequences of the test are enormous -- possible NRC or criminal action against ~~the subject~~ 7C Fear of these consequences would increase any innocent person's level of stress, anxiety or nervousness. These increased stress levels, in turn, increase the likelihood that the polygraph will register "deception," when in fact it is measuring the natural nervousness of an innocent man.

The authors of one of the articles I read (which I attach for your review) noted the following:

[I]n situations in which there is genuine concern about the outcome of a control question polygraph examination, a substantial proportion of innocent subjects may react more strongly to the relevant questions, producing deceptive test results. Within the group pressure atmosphere of this study, the accuracy of CQT [a polygraph test that uses control test questions] with innocent subjects was no better than chance. . . . This finding is consistent with preliminary results from a large-scale field study recently reported . . . , in which the blind hit rate for confession-verified innocent subjects was only 55%. It is also consistent with the results of three other field studies of

ROSS, DIXON & MASBACK, L.L.P.

Nuclear Regulatory Commission
Office of Investigations
Attention: Craig Tate
October 10, 1996
Page 3

the ~~CQT~~ that collectively indicate about chance-level accuracy with innocent subjects. . . .

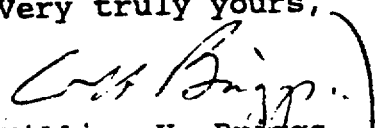
Attachment A at 353-54 (citations omitted) (footnote added). See also Attachment B at 450 ("interpreters are more likely to label a suspect untruthful than truthful, a bias that is particularly evident in the false-positive results which show that the misclassification rate of innocents is as high as 50%.").

The bottom line of my research is that a lie detector has about the same chance of clearing an innocent person as flipping a coin. I don't believe that [redacted] fate or the results of your investigation should be determined by a coin-flip -- do you? 7C

I am happy to reconsider my position if you have any evidence that what I have reported to you is wrong. In the meantime, I reiterate what I told you in my September 27 letter. We will give you any documents you want, talk to you any time or place you chose, and answer any questions you have. If you truly have information [redacted] -- a witness, a document, whatever -- tell us what it is. Let us confront the "proof" being used against [redacted] and at least try to explain to you why it does not support the charges against [redacted] 7C

Please do not hesitate to call me if you have any questions about this letter, any additional polygraph information we should consider, or any desire to obtain more evidence from [redacted] relating to this matter. In the meantime, I would appreciate your forwarding me copies of the transcripts of your interviews with [redacted] as we previously discussed and as I requested in my September 27, 1996 letter. 7C

Very truly yours,


William H. Briggs, Jr.

WHB/jmh
Enclosures

0114703.01

EXHIBIT 12

7C per [redacted]
PAGE 3 OF 16 PAGE(S)

EXHIBIT 12
PAGE 4 OF 16 PAGE(S)

Attachment A

Received
02/25/98
AKB

97E0503

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WILLIAM H. BRIGGS, JR.
TELEPHONE: (202) 662-2063
EMAIL: BBRIGGS@RDMLAW.COM

January 26, 1997

VIA FACSIMILE & FIRST-CLASS MAIL

Ms. Anne T. Boland
Director
Enforcement & Investigations
Coordination Staff
US Nuclear Regulatory Commission
Region 2
Atlanta Federal Center
61 Forsyth Street, S.W.
Suite 23T85
Atlanta, Georgia 30301-3415

Re: Extension of time to respond to October 9 letter

Dear Ms. Boland:

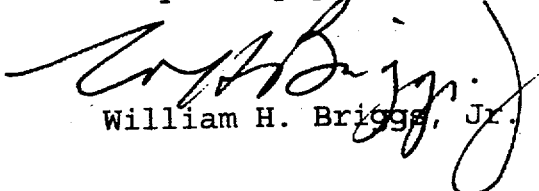
This will confirm that the NRC has given [redacted] until Friday, February 6, 1998 to respond to the NRC's letter of October 9, 1997. In addition, I understand that the NRC will contact FP&L to see if it objects to the release of those portions of the FP&L's [redacted] report that purport to reflect [redacted] statements to the [redacted]. Assuming that FP&L does not object, I understand that the NRC will release those portions of the [redacted] report to [redacted].

EX 7C

EX 7C

Please let me know if this letter does not accurately reflect the representations you made on behalf of the NRC in our telephone discussion this afternoon.

Very truly yours,


William H. Briggs, Jr.

WHB/jmh

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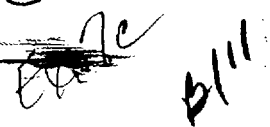


EXHIBIT 14

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Act, exemptions b7c
FOIA- 98-162

B112

REPORT OF INTERVIEW WITH ROBERT W. WINNARD

WINNARD, Supervisor, Design Basis Group, St. Lucie Nuclear Plant (SLP), was interviewed at SLP on March 19, 1997, by U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) Special Agent Craig T. Tate. Attorney Mitchell S. ROSS represented WINNARD during the interview. WINNARD related the following information in substance:

AGENT'S NOTE: With WINNARD's knowledge and consent, OI tape recorded this interview, however, a delivery service lost the audio tape prior to transcription.

WINNARD advised he first learned the NRC was interested in [redacted] from a specific [redacted] through a discussion associated with an inspection pre-exit briefing. WINNARD could not recall the date or details of the discussion, but he believed he may have recorded the date of the briefing in a computerized organizer program in use at that time.

AGENT'S NOTE: ROSS subsequently provided a print-out of WINNARD's organizer pages for dates [redacted] inclusive. The organizer reflects the entry, "SLP: NRC Audit 50.59" on the following days: 3:00 PM, [redacted]. The NRC conducted a pre-exit briefing on the afternoon of [redacted].

WINNARD advised he was not involved with the search for the [redacted], which he believed were later found by [redacted]. WINNARD could not recall when [redacted] found the [redacted] but he (WINNARD) believed [redacted] told him the [redacted]. WINNARD did not recall giving [redacted] specific instructions regarding the [redacted] but commented he may have advised [redacted] to take the [redacted] to plant General Manager James SCAROLA. WINNARD did not recall any other significant discussion with [redacted] regarding this matter.

AGENT'S NOTE: WINNARD provided copies of electronic correspondence, authored by [redacted] pertinent to the NRC 50.59 audit. The documents identify the evaluation selected for review and provide the audit interview schedule.

WINNARD stated he had no knowledge that [redacted] or any other Florida Power & Light employee provided inaccurate or incomplete information regarding this matter to the NRC. WINNARD provided no additional pertinent information.

Craig T. Tate, Special Agent Office of Investigations Field Office, Region II

Handwritten notations: 7C, 7C, 7C, 7C, 7C

Handwritten notations: 7C, 10, 15

Information in this record was deleted
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Act, exemptions b7C
FOIA- b7C, b7E

B113

EXHIBIT 15

REPORT OF INTERVIEW
WITH
RICHARD L. DIETZ

DIETZ, Licensing Engineer, St. Lucie Nuclear Plant (SLP), was interviewed at SLP on March 19, 1997, by U.S. Nuclear Regulatory (NRC) Office of Investigations (OI) Special Agent Craig T. Tate. Attorney Mitchell S. ROSS represented DIETZ during the interview. DIETZ related the following information in substance:

AGENT'S NOTE: With DIETZ's knowledge and consent, OI tape recorded this interview; however, a delivery service lost the audio tape prior to transcription.

DIETZ advised he became aware of NRC's interest in a [redacted] issue through his attendance at an inspection pre-exit briefing given by NRC Inspector [redacted] on the afternoon of [redacted]. DIETZ recalled that [redacted] was concerned with whether the issue had been addressed by the SLP [redacted]. The following morning [redacted] at about 7:30 a.m., either [redacted] or Kris MOHINDROO told DIETZ that at about 6:00 p.m. [redacted] advised he felt the [redacted] should have reviewed the [redacted], but that he had seen no evidence to indicate that it had, [redacted] and that it would be a violation of SLP Technical Specifications [redacted].

7C

DIETZ related that between 7:30 a.m. to 8:00 a.m. [redacted] he heard either [redacted] or MOHINDROO tell [redacted] that they would provide the [redacted] documenting that the [redacted] had addressed the [redacted]. DIETZ then spoke briefly with [redacted] prior to the formal exit briefing, at which time [redacted] commented he viewed this issue as a potential violation with safety significance. DIETZ provided a copy of pertinent pages of his daily activity log book which documents the above information.

had reviewed the [redacted] 7C

DIETZ advised he was not involved with the search for the [redacted] and was not knowledgeable of the circumstances under which the [redacted] were located or [redacted]. DIETZ stated he had no knowledge that [redacted] or any other Florida Power & Light employees provided inaccurate or incomplete information regarding this matter to the NRC. DIETZ provided no additional pertinent information.

7C

Craig T. Tate
Craig T. Tate, Special Agent
Office of Investigations
Field Office, Region II

7C portions

EXHIBIT 13

Information in this record was deleted
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Act, exemptions 7C
FOIA- 98-162

B/14

REPORT OF INTERVIEW
WITH
KRISHANK K. MOHINDROO

(Optional: Special Agent's Name)

MOHINDROO, Chief Site Engineer, Special Projects, St. Lucie Nuclear Plant (SLP), was interviewed at SLP on March 18, 1997, by U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) Special Agent Craig T. Tala. Attorney Mitchell S. ROSS represented MOHINDROO during the interview. MOHINDROO related the following information in substance:

AGENTS NOTE: With MOHINDROO's knowledge and consent, OI tape recorded this interview; however, a delivery service lost the audio tape prior to transcription.

MOHINDROO advised he first learned the NRC was interested in [redacted] through a pre-exit briefing conducted on the afternoon of [redacted]. During the briefing, NRC Inspector [redacted] advised MOHINDROO and others that a violation would be issued unless SLP provided documentation that the issue had been addressed by the MOHINDROO provided a copy of pertinent pages of his daily activity log book which documents the briefing.

AGENTS NOTE: [redacted] conducted a pre-exit briefing on the afternoon of [redacted]

MOHINDROO advised he was not involved with the search for [redacted] and was not knowledgeable of the circumstances under which the [redacted] He stated he had no knowledge that [redacted] or any other Florida Power & Light employee provided inaccurate or incomplete information regarding this matter to the NRC. MOHINDROO provided no additional pertinent information.

MOHINDROO learned this information during the last afternoon of [redacted] on during the last case hearing of [redacted] Case No. 2-95-034

Craig T. Tala, Special Agent
Office of Investigations
Field Office, Region II

EXHIBIT 13

EXHIBIT 16

Information in this record was deleted
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Act, exemptions b1, b7C
FOIA- 98-162

B115

REPORT OF INTERVIEW
WITH
JAMES SCAROLA

SCAROLA, General Manager, St. Lucie Nuclear Plant (SLP), was interviewed at SLP on March 19, 1997, by U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) Special Agent Craig T. Tate. Attorney Mitchell S. ROSS represented SCAROLA during the interview. SCAROLA related the following information in substance:

AGENT'S NOTE: With SCAROLA's knowledge and consent, OI tape recorded this interview; however, a delivery service lost the audio tape prior to transcription.

SCAROLA advised he first learned the NRC was interested in [redacted] from a specific [redacted] through a discussion with SLP Engineer [redacted]. SCAROLA could not recall the date of the discussion; however, he recalled they met late in the afternoon and no one else was present during the meeting. During the discussion [redacted] reportedly explained he [redacted] needed to send the [redacted] to the NRC to resolve an issue raised during the recent inspection. [redacted] suggested the [redacted] prior to sending them to the NRC. Upon reviewing the [redacted] SCAROLA recalled the issues discussed during the [redacted] and noted he (SCAROLA) served as [redacted]. Without reservation, SCAROLA [redacted] in the presence of [redacted]. SCAROLA did not recall any other significant discussion with [redacted] regarding this matter.

7C
7C

Reporting agent noted the [redacted] were likely [redacted] shortly after the NRC inspection exit on [redacted]. When asked if it was a general practice to [redacted] so long after the actual [redacted] SCAROLA advised such was not a desirable practice but that there was a backlog in [redacted] documents. SCAROLA further advised that the [redacted] indicated the [redacted] rather than the [redacted].

7C
7C

SCAROLA advised he was not aware that [redacted] or others had been searching for the [redacted] during the NRC inspection. He added that he was not involved with the document search. SCAROLA advised he did not discuss this matter with others until the issue surfaced through a SLP Speakout Program inquiry.

SCAROLA stated he had no knowledge that [redacted] or any other Florida Power & Light employee provided inaccurate or incomplete information regarding this matter to the NRC. SCAROLA provided no additional pertinent information.

7C

Craig T. Tate
Craig T. Tate, Special Agent
Office of Investigations
Field Office, Region II

EXHIBIT 16
PAGE 1 OF 1 PAGE(S)

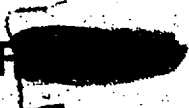
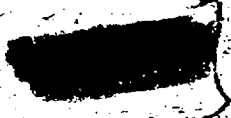
**United States
Nuclear Regulatory Commission**



Report of Investigation

ST. LUCIE NUCLEAR PLANT:

**FALSIFICATION OF INFORMATION PROVIDED
TO THE NRC REGARDING EVALUATION OF**



EX7C

Office of Investigations

Reported by OI: **RJJ**

In accordance with the Freedom of Information Act, exemptions 7(C) and 7(D) have been applied to this record. FOIA.
9/26/78

EX7C

Title: ST. LUCIE NUCLEAR PLANT:

FALSIFICATION OF INFORMATION PROVIDED TO THE NRC REGARDING EVALUATION OF [REDACTED]

EX
7C

Licensee:

Case No.: 2-95-034

Florida Power and Light Company
P.O. Box 14000
Juno Beach, Florida 33408-0420

Report Date: August 22, 1997

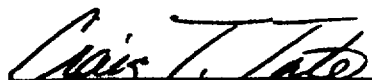
Control Office: OI:RII


Docket Nos.: 50-335; 50-389

Status: CLOSED

Reported by:

Reviewed and Approved by:


Craig P. Tate, Special Agent
Office of Investigations
Field Office, Region II


William J. McNulty, Director
Office of Investigations
Field Office, Region II

WARNING

DO NOT DISSEMINATE, PLACE IN THE PUBLIC DOMAIN, OR DISCUSS THE CONTENTS OF THIS REPORT OF INVESTIGATION OUTSIDE NRC WITHOUT AUTHORITY OF THE APPROVING OFFICIAL OF THIS REPORT. UNAUTHORIZED DISSEMINATION MAY RESULT IN ADVERSE ADMINISTRATIVE ACTION AND/OR CRIMINAL PROSECUTION.

11/10/97 [Signature]

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FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION II

SYNOPSIS

The U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region II (RII), initiated this investigation on December 29, 1995, after a [REDACTED] alleged a Florida Power and Light Company (FPL), St. Lucie Nuclear Plant, engineer provided backdated or falsified information to the NRC. As the investigation developed, the focus shifted to whether an FPL engineer withheld from the NRC, information material to an NRC inspection.

Based upon a preponderance evidence developed during this investigation, OI concludes an FPL engineer [REDACTED]

EXS

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77/4-12/95

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[REDACTED].....	[REDACTED]
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EX7C
EX7D

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LIST OF INTERVIEWEES

Exhibit(s)

[REDACTED]	6 & 7 EX 7D
DIETZ, Richard L., FPL, SLP Licensing Engineer.....	15
MOHINDROO, Krishan K., FPL, SLP Operations Support Engineering Manager.....	13
SCAROLA, James, FPL, SLP Plant General Manager.....	16
[REDACTED]	9 & 10 EX 7C
WINNARD, Robert W., FPL, SLP Supervisor, Special Projects.....	14

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DETAILS OF INVESTIGATION

Applicable Regulations

Allegation: Falsification of Information Provided to the NRC

10 CFR § 50.5: Deliberate misconduct

10 CFR § 50.9: Completeness and accuracy of information

Purpose of Investigation

The U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region II (RII), initiated this investigation on December 29, 1995 (Exhibit 1), to determine whether a Florida Power and Light Company (FPL) engineer provided backdated or falsified information to the NRC. As the investigation developed the focus shifted to whether an FPL engineer withheld from the NRC information material to an NRC inspection.

Background

[REDACTED] SLP provided [REDACTED] to the NRC to support a denial of a potential violation identified during a [REDACTED] inspection conducted by [REDACTED] (Exhibit 2). ([REDACTED])

AD

EXTC

AGENT'S NOTE: [REDACTED] inspection findings are reported in NRC Inspection Report No. 50-335/389 95-22. The report is not included as an exhibit to this report; however, it will be maintained in the investigative case file and will be made available to proper authority upon request.

EXTC

On December 21, 1995, the RII Allegation Review Board reviewed [REDACTED] allegations and requested OI initiate an investigation to determine whether SLP provided false or backdated information to the NRC.

AD

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ad notes

AGENT'S NOTE: The NRC uses SLP as an abbreviation for St. Lucie Nuclear Plant; however, licensee documentation uses PSL. For the purpose of this report the abbreviations may be used interchangeably.

Coordination with NRC Staff

[redacted] advised that during a [redacted] inspection of SLP-50-59 issues, he requested documentation to support the licensee's claim that SLP had addressed issues pertinent to the inspection. [redacted] recalled discussing this concern with [redacted] By mid-morning on [redacted] provided [redacted] for several of the issues, but reportedly claimed that [redacted] for one issue could not be located. [redacted] repeatedly voiced a concern to [redacted] that the issue was serious and that a violation would be issued if the documentation was not forthcoming. On several occasions, including one as late as several minutes prior to the inspection exit briefing, [redacted] reportedly told [redacted] the [redacted] could not be located; however, they would be forwarded to [redacted] as soon as they were located.

EX7C

7C

7C

7D

[redacted] On [redacted] received a faxed copy of the pertinent [redacted]

EX7C

AGENT'S NOTE: The fax date/time stamp reflects the licensee faxed the [redacted] at 3:23 p.m.

EX7C

To determine the magnitude of the alleged backdating/falsification issue, RII, in coordination with OI, utilized site and RII staff to seek other documents which would support the allegation. On February 20, 1996, Mark G. MILLER, Sr. Resident Inspector (SRI), SLP, performed a cursory review of the status of SLP [redacted] MILLER found that [redacted] were current for 1996 but that a backlog existed for the last 3 months of 1995 (i.e., numerous [redacted] activity. MILLER reportedly attributed the backlog to increased [redacted] activity. MILLER advised this increased activity was known to the NRC and resulted from a shift to a verbatim compliance policy which necessitated the upgrading of large volumes of [redacted] (Exhibit 3).

EX7C

Further, during a mid-May 1996 inspection the SRI and RII staff were unable to determine if other examples of the deceptive practice existed. Additionally, following an extensive review of pertinent procedures, RII staff determined

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existing procedures do not stipulate a time requirement for the [REDACTED] and, therefore, a document [REDACTED] does not constitute a violation of procedure (Exhibits 4 and 5).

EXT 71

AGENT'S NOTE: At this juncture the investigative focus shifted to determine whether an SLP employee(s) deliberately withheld from the NRC information material to an NRC inspection.

[REDACTED]

2

AGENT'S NOTE: [REDACTED]

[REDACTED]

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hottens

[REDACTED] 11
Interview of [REDACTED]

OI interviewed [REDACTED] or [REDACTED] (Exhibit 9), [REDACTED] (Exhibit 10), and [REDACTED]. During the interviews, [REDACTED] related that as a result of a request from [REDACTED] during a [REDACTED] 50.59 inspection, he became involved in searching for specific [REDACTED]. [REDACTED] recalled having difficulty finding the [REDACTED] because, at that time, the [REDACTED] were not electronically maintained (indexed) and all queries required a manual search. He recalled finding several of the requested [REDACTED] and delivering them to [REDACTED] prior to [REDACTED] departure from the site on [REDACTED]. However, he also recalled telling [REDACTED] that one of the [REDACTED] could not be located. He remembered faxing one set of [REDACTED] to [REDACTED] in Atlanta on [REDACTED]. 7C

[REDACTED] initially recalled finding the [REDACTED] signed. However, upon reinterview, he corrected his prior testimony. [REDACTED] advised he delivered three sets of [REDACTED] to [REDACTED] on the morning of the inspection exit briefing [REDACTED]. He stated he found the fourth set of requested [REDACTED] sometime after [REDACTED] had left the site, probably Monday [REDACTED] or possibly Friday [REDACTED]. He recalled finding the [REDACTED] at which point he had the plant manager [REDACTED] recalled faxing the [REDACTED] to [REDACTED] on Monday [REDACTED]. EX 7C 7C

[REDACTED] denied attempting to mislead [REDACTED] or the NRC regarding the delivery of the [REDACTED]. [REDACTED] stated he changed his testimony after reviewing his personal log which refreshed his recollection of the matter. 7C

On September 18, 1996, OI requested [REDACTED] undergo polygraph examination to determine the veracity of his account of the facts and circumstances surrounding the allegation he withheld from the NRC, information material to an NRC inspection. FPL Attorney, Mitchell S. ROSS, took the request under advisement. 7C

AGENT'S NOTE: After finding a potential conflict of interest in representing both FPL and [REDACTED] regarding this matter, ROSS advised [REDACTED] to obtain separate counsel. 7C

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Via letter dated September 27, 1996, [REDACTED] attorney expressed, among other thoughts, he would research the reliability of polygraph examinations prior to deciding whether [REDACTED] would consent to undergo polygraph examination (Exhibit 11). Via followup letter dated October 10, 1996, [REDACTED] attorney declined to have [REDACTED] undergo polygraph examination. The letter includes documentation which purportedly indicates stress levels generated by a polygraph examination can produce the same results as a deceptive answer thus increasing the likelihood that an innocent person will "fail" the "lie detector" (Exhibit 12). 7C

Interview of MOHINDROO

On March 19, 1997, MOHINDROO advised he learned of the NRC's interest in the [REDACTED] following a pre-exit briefing conducted on the afternoon of [REDACTED]. That afternoon, or the following morning, [REDACTED] advised MOHINDROO and others that a violation would be issued unless SLP provided documentation that the pertinent issue had been addressed by the [REDACTED]. MOHINDROO stated he was not involved in the search for the [REDACTED] and was not aware of the circumstances under which the [REDACTED] (Exhibit 13). EX-7C

Interview of WINNARD

On March 19, 1997, WINNARD advised that through a discussion associated with an inspection pre-exit briefing, he learned the NRC was considering a potential violation relating to an apparent failure of the SLP to review a particular issue. WINNARD could not recall the date or details of the discussion. WINNARD did not recall any involvement with the search for the [REDACTED] which he believed were found by [REDACTED]. WINNARD believed [REDACTED] told him the [REDACTED] needed to be [REDACTED]. WINNARD did not recall giving specific instructions regarding the [REDACTED] however, WINNARD commented he may have advised [REDACTED] to take the [REDACTED] to SCAROLA for [REDACTED] (Exhibit 14). 7C

Interview of DIETZ

On March 19, 1997, DIETZ advised he became aware of the NRC's interest in a [REDACTED] issue through attendance at an inspection pre-exit briefing given by [REDACTED] on the afternoon of [REDACTED]. DIETZ recalled [REDACTED] expressed concern about whether the issue had been addressed by the [REDACTED]. The following morning DIETZ learned from [REDACTED] or MOHINDROO that [REDACTED] felt the 7C

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should have reviewed the [redacted] issue and that a failure to do so would constitute a violation of SLP technical specifications. DIETZ recalled hearing [redacted] or MOHINDROO tell [redacted] that they would provide the [redacted] documenting the [redacted] review of the [redacted] issue. DIETZ advised he was not involved with the search for the [redacted] and was not knowledgeable of the circumstances under which the [redacted] (Exhibit 15).

Interview of SCAROLA

On March 19, 1997, SCAROLA advised he first learned of the NRC's interest in [redacted] through a discussion with [redacted] SCAROLA could not recall the date of the discussion; however, he recalled that [redacted] explained that the [redacted] needed to be [redacted] and sent to the NRC to resolve an issue raised during the recent inspection. Upon reviewing the [redacted] SCAROLA recalled the issues pertinent to the [redacted] which he chaired. SCAROLA recalled [redacted] in the presence of [redacted] but could recall no other significant discussion with [redacted] regarding this matter. When asked if it was a general practice to [redacted] so long after the actual [redacted] SCAROLA advised such was not a desirable practice but that there had been a backlog in processing the documents. SCAROLA further advised that the date on the [redacted] indicated the date of the [redacted] rather than the date of [redacted] (Exhibit 16). 7C

AGENT'S NOTE: Interviews of MOHINDROO, WINNARD, DIETZ, and SCAROLA were conducted in the presence of FPL Corporate Counsel ROSS. OI recorded the separate interviews; however, prior to transcription a delivery service lost the audio tapes. The individual interview reports have been reviewed and edited by the respective interviewees. In a transmittal letter to the NRC (Exhibit 17) FPL finds the letter and the edited interview reports exempt from disclosure pursuant to 10 CFR 2.790(a)(6) and (a)(7).

Review of Licensee Speakout Investigation

On March 17, 1997, James C. GALLAGHER, FPL Nuclear Safety Speakout Investigator, provided OI access to a Speakout investigative file initiated [redacted] alleged a SLP/FPL engineer "lied to the NRC about the retrievability, existence and status of a SLP document which raises questions about ethics." GALLAGHER provided a copy of the Speakout Investigation Report (Exhibit 18) which details the investigative efforts and findings. Although 7C

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noting a number of general inconsistencies and contradictions regarding the [REDACTED] actions/statements, the investigation did not substantiate the allegation. 70

Evidence/Agent's Analysis

The determination of culpability in this matter is less than absolute and rests on one's assessment of the veracity of the accounts provided by [REDACTED] and by [REDACTED]. Other individuals rode the periphery of this occurrence; however, the compelling act appears witnessed by only these [REDACTED] individuals. 7D 7C



In contrast, during [REDACTED] interview, [REDACTED] first testified he found the pertinent [REDACTED] (Exhibit 9), but during the [REDACTED] interview, (Exhibit 10) he corrected his testimony to reflect he found the [REDACTED] stated he found the [REDACTED] on Friday, [REDACTED] or Monday, [REDACTED] after [REDACTED] departed SLP (Exhibits 9 & 10). Further, on advice of counsel, [REDACTED] declined to undergo polygraph examination to prove the veracity of his account (Exhibit 12). 7C

Additionally, although the licensee's Speakout investigation concluded, "it was indeterminate as to whether or not an FPL/PSL Engineer lied to an NRC [REDACTED] as found and when found condition of a particular copy of [REDACTED] the Speakout investigation found a number of [REDACTED] with the testimony of interviewees, [REDACTED] (Exhibit 18). Specifically, the investigation noted that [REDACTED] stated he found the pertinent [REDACTED] on Tuesday morning, [REDACTED] [sic]. He reportedly faxed the [REDACTED] to the NRC Inspector on Tuesday, [REDACTED]. 7C

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7C 7D reflects

7D

Viewed in juxtaposition, the strength, consistency, and veracity [redacted] clearly outweighs the testimony of [redacted]. The conclusion is necessarily drawn. 7C

Conclusion

Based upon a preponderance of evidence developed during the investigation, OI concludes an FPL engineer [redacted]

Ex 5

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7C + 7D portions

SUPPLEMENTAL INFORMATION

On August 19, 1997, OI apprised William P. SELLERS, Senior Legal Advisor for Regulatory Enforcement, General Litigation and Legal Advice Section, Criminal Division, U.S. Department of Justice (DOJ), Washington, D.C., of the results of instant investigation. SELLERS declined prosecutive interest on behalf of the DOJ.

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>	
1	Investigation Status Record, dated December 29, 1995.	
2	[REDACTED]	7C
3	NRC Memorandum re: Status of [REDACTED] at St. Lucie, from MILLER to OI Special Agent Craig T. Tate, dated February 22, 1996.	
4	NRC Memorandum re: Allegation Inspection Update, from John W. YORK, Division of Reactor Safety, RII to OI:RII Director, William J. McNulty, dated July 9, 1996.	
5	NRC Memorandum re: Allegation Inspection Update (Correction), from YORK to McNulty, dated July 17, 1996.	
	[REDACTED]	7D
	[REDACTED]	
8	Department of Defense Inspector General Polygraph Examination Report, [REDACTED]	7C
9	Transcribed Tape Interview of [REDACTED] dated [REDACTED]	7C
10	Transcribed Tape Interview of [REDACTED] dated [REDACTED]	7C
11	Letter from Attorney William H. BRIGGS, Jr., dated September 27, 1996, to OI.	7C
12	Letter from Attorney BRIGGS, dated October 10, 1996.	7C

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7D per [unclear]

Exhibit
No.

Description

- 13 Report of Interview with MOHINDROO, dated March 19, 1997.
- 14 Report of Interview with WINNARD, dated March 19, 1997.
- 15 Report of Interview with DIETZ, dated March 19, 1997.
- 16 Report of Interview with SCAROLA, dated March 19, 1997.
- 17 FPL Transmittal Letter, to TATE, dated August 13, 1997.
- 18 FPL SPEAKOUT Investigation Report, Concern No. NSS-PSL-96-085, dated February 25, 1997.

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From: Anne Boland, *RII*
To: WND1.WNP2.AEN, WND1.WNP2.LFD, ATP1.JPJ, ATP1.CAC1,...
Date: 9/22/97 2:21pm
Subject: Region II Enf Panel 9/24/97 FINAL AGENDA

FINAL AGENDA

The Region II Enforcement Panel will be held at 2:00 p.m. on Wednesday, September 24, 1997, in the DRP Conference Room. The bridge number is 801-415-7605 (passcode [REDACTED]). The preliminary agenda is as follows: *Ex 2*

CH
FW 1. St. Lucie - 3-Week Meeting - OI Report No. 2-95-034 - Withholding Information from an NRC Inspector: The OI Report has already been distributed to the appropriate parties - ***EAW attached***

RH 2. Surry - Appendix R Violations - Delayed until 10/1/97

There is one attachment to this e-mail.

FOR INTERNAL USE ONLY

EICS ENFORCEMENT WORKSHEET

EICS MEETING NOTES AND DOCUMENTATION OF UNDERSTANDING

EA NUMBER: 97-451
FACILITY: St. Lucie
SUBJECT: Potential Wrongdoing

ATTENDEES

L. Plisko B. Weisman
A. Boland K. Holtzy
C. Casto R. Bracho
C. Smith S. Rudisail
W. McNulty J. Munday
M. Satorius M. Miller
T. Reis J. Lieberman

PANEL PEC CAUCUS
 OI BRIEF RA BRIEF
 OTHER _____

INSPECTION END DATE: 8/29/97 (OI)

PREPARED BY: A Boland

DATE: 9/24/97 TIME: 2:00p.m.

I. EICS STAFF NOTES:

Ex 7C Wed. Needed [redacted]
Fri. Exited send [redacted]
Ex 7C Mon. [redacted] identified [redacted]
OI Investigation → potential violation ① Tech. Issue
② [redacted] Requirement
Ex 7C OI Form → [redacted] - [redacted] dissolved [redacted]
[redacted] after exit - holding
- got [redacted]
Ex 7C [redacted] - 1^o - told us found on [redacted]
2^o - checked that [redacted] were found
declined polygraph
Ex 7C [redacted] polygraphed - passed

Information in this record was deleted

in accordance with the Freedom of Information Act, exemptions 5, 7C, 7D

FOIA- 98-162

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APPROVAL OF THE REGIONAL ADMINISTRATOR, REGION II

Ex 7c
unless
otherwise
noted B/18

FOR INTERNAL USE ONLY

ENFORCEMENT ACTION WORKSHEET

EICS MEETING NOTES AND DOCUMENTATION OF UNDERSTANDING

II. RISK ASSESSMENT

III. CIVIL PENALTY ASSESSMENT PROCESS

A. First non-willful SL III violation in 2 years/2 inspections? YES or NO
Previous escalated cases:

B. Identification Credit? YES or NO - N/A
NRC identified?
Licensee identified?
Revealed through an event?

Prior Opportunities?

C. Corrective action credit? YES or NO - N/A
Immediate corrective actions:

Long term corrective actions to prevent recurrence:

Reason for corrective action credit:

D. Discretion applied? YES or NO Reason why:

E. Civil Penalty: _____

F. Recommendation for predecisional enforcement conference:

G. Lessons Learned Action Items:

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ENFORCEMENT ACTION WORKSHEET

EICS MEETING NOTES AND DOCUMENTATION OF UNDERSTANDING

NOTE: Complete the following information for each violation

APPARENT VIOLATION: _____

IV. Documentation of Enforcement Panel/Caucus Understanding

- A. Preliminary Severity Level (Prior to Application of any Discretion, From Part I) _____
- B. Increase Severity Level based on Aggregation? _____
- C. Increase Severity Level for Repeat Violations? _____
(Address requirements of ROI 0903)
- D. Increase Severity Level for Willfulness? _____
- E. SEVERITY LEVEL _____ SUPPLEMENT/SECTION _____
- F. Recommended Civil Penalty _____
- G. Predecisional Enforcement Conference Necessary? _____
- H. Revision to Draft NOV Required? _____
- I. Formal Review by OE Required? _____
- J. Special Action Items/Message to Licensee/Comments:

Likely he had [REDACTED] EXT

Verball information → inaccurate

Management knew of need for the information

Evidence [REDACTED] had: [REDACTED] conviction [REDACTED]

Would we have accepted minutes etc? → we would have wanted [REDACTED]

↳ would not have accepted

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ENFORCEMENT ACTION WORKSHEET

EICS MEETING NOTES AND DOCUMENTATION OF UNDERSTANDING

FACILITY: _____

EA NUMBER: _____

PAGE NO: _____

Ex 5

Ex 7d Only way to make case - if [redacted]

Ex 7c

~~to find~~
Lied to OI → supervisor
Choice better? [redacted] strong

NOV

credibility + integrity
did not significantly impede inspection

material in that we needed to resolve issue

Ex 7c

Presume - he thought [redacted] was requirement

Ex 7d

Unable prove - [redacted]

Message → expected more candor + frankness
either had prior to departure or shortly

100

Accept - more likely than not that he lied

- ① info was available @ time of inspection
- if not ② obtained [redacted] + talk of [redacted]
- it was [redacted] ③ made no attempt to contact ORC of standard

not the standard

Accused - [redacted]

Ex 5

Conclusion - No Action to the License.
Choice better to individual
possible letter or NOV
send Choice letter to Plunkett → explain
need for limited distribution and he
is only being informed because it
involves an employee

OE needs to see for external review

09/24+25/97

Subbed to J. Richman and he felt
letter was appropriate w/o change letter due
to facts of case. Not disagreement w/OI
sent not going 50.5 due to verbal/quantity
of evidence / no safety significance.

09/25/97

Subbed to [REDACTED] indicated he
requested [REDACTED]

EX
7C

09/25/97

preferred Reye - he is in agreement
with letter - condensed w/OI and JXL
sent it should be sent to the utility

09/25/97

Advised JXL via Email of LAL's
position.



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION II
ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW, SUITE 23T85
ATLANTA, GEORGIA 30303-3415

October 9, 1997

[REDACTED]
[HOME ADDRESS DELETED
PURSUANT TO 10 CFR 2.790]

EX 7C

SUBJECT: NRC INVESTIGATION REPORT NO. 2-95-034

Dear [REDACTED]

This refers to an investigation by the NRC Office of Investigations (OI) conducted between December 29, 1995, and August 22, 1997, at Florida Power and Light Company's (FPL) St. Lucie facility located in Jensen Beach, Florida. You were interviewed on [REDACTED] and [REDACTED] by OI as a part of this investigation.

EX 7C

The investigation was conducted to determine whether you withheld information from an NRC inspector that was material to an NRC inspection conducted between [REDACTED]. During that inspection, a duly authorized inspector of the NRC requested that you provide [REDACTED] to confirm that a technical issue concerning [REDACTED] was [REDACTED] as required by Technical Specifications. The [REDACTED] were faxed to the NRC inspector at the NRC's Region II office in Atlanta, Georgia, on [REDACTED].

EX 7C

OI concluded that based on a preponderance of the evidence developed during the investigation, [REDACTED] in that, on [REDACTED] you had [REDACTED] which contained a review of the [REDACTED] and [REDACTED] apparently because [REDACTED] at the time the request was made. Even if you [REDACTED] at time of the NRC exit interview on the morning of [REDACTED] you [REDACTED] as evidenced by a computer "e-mail" message issued by you at that time. However, you [REDACTED] You later had the [REDACTED] and faxed to the NRC on the following Monday. You made no attempt to inform the NRC that these [REDACTED] when you found them.

EX 7C

Your initial statements made on [REDACTED] under oath were unequivocal with regard to your finding the [REDACTED]. In subsequent interviews by the NRC and your employer, your explanation changed. It appears that you [REDACTED] on several occasions to both NRC and your employer's [REDACTED] concerning [REDACTED] and the substance of your conversations with your supervisors. We are particularly concerned that your [REDACTED]

EX 7C
EX 7

CERTIFIED MAIL NO. P 291 242 710 in this record was deleted
RETURN RECEIPT REQUESTED in accordance with the Freedom of Information Act, exemptions 7C, 5
FOIA- 98-162

EX 7C
B/119

[REDACTED] expected of employees in the nuclear industry.

Serious consideration was given to taking individual enforcement action against you, but we have decided not to take enforcement action for this issue. However, you are on notice that 10 CFR 50.5, Rule on Deliberate Misconduct (Enclosure 1), provides for civil action against employees of licensees who knowingly provide incomplete or inaccurate information to either the NRC or a licensee. Civil action can include the issuance of orders to remove individuals from licensed activities. You also should be aware that submittal of false information may result in criminal prosecution under 18 USC 1001. A copy of the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, is enclosed for your reference (Enclosure 2).

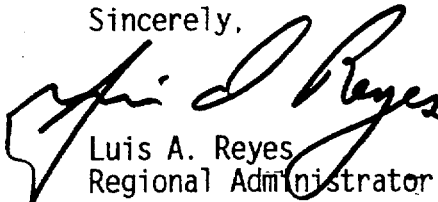
We expect that in the future your communications with any representative of the NRC will be complete and accurate and if you determine that such communications have not met that standard, you will promptly notify the Commission. Failure to meet the Commission's requirements [REDACTED]

[REDACTED] If you have any questions concerning your responsibilities to meet our requirements, please call Mrs. Anne Boland at (404) 562-4421 or Mr. Harold Christensen at (404) 562-4605. Collect calls will be accepted. You may also contact us by calling 1-800-577-8510.

You are not required to respond to this letter. However, if you choose to provide a response, please provide it to me within 30 days of the date of this letter at U.S. Nuclear Regulatory Commission, Region II, Atlanta Federal Center, 61 Forsyth Street, S.W., Suite 23T85, Atlanta, Georgia 30303.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, records or documents compiled for enforcement purposes are placed in the NRC Public Document Room (PDR). A copy of this letter with your address removed, and your response, if you choose to submit one, will be placed in the PDR 45 days after the date of this letter (unless you provide sufficient basis to withdraw this letter). At that time, a copy also will be provided to Florida Power and Light Company.

Sincerely,


Luis A. Reyes
Regional Administrator

Enclosures: 1. 10 CFR 50.5
2. NUREG-1600, Enforcement Policy

cc w/o encls: (See Page 3)

10-17-97

EX7C

cc w/o encls [HOME ADDRESS DELETED]:
William H. Briggs, Jr.
Ross, Dixon and Masback, L.L.P.
601 Pennsylvania Avenue, N.W.
North Building
Washington, D.C. 20004-2190

EXTC

Distribution w/enc ~~1~~ [HOME ADDRESS DELETED]:

PUBLIC (HOLD FOR 45 DAYS - EICS ACTION)

- LJCallan, EDO
- ATHadani, DEDE
- JLieberman, OE
- SCollins, NRR
- RZimmerman, NRR
- LChandler, ~~OE~~
- JGoldberg, OGC

Enforcement Coordinators

- RI, RII, ~~RII~~, RIV

- OE EA File (Bsummers, OE) (2 letterhead)
- WBeecher, OPA (HOLD FOR 45 DAYS - EICS ACTION)
- HBell, OIG
- EJulian, SECY (HOLD FOR 45 DAYS - EICS ACTION)
- BKeeling, CA (HOLD FOR 45 DAYS - EICS ACTION)
- TMartin, AEOD
- GCaputo, OI
- MGamberoni, OEDO
- DRoss, AEOD
- LWeins, NRR
- FHebdon, NRR
- CEvans, RII
- ABoland, RII
- KClark, RII
- RTrojanowski, RII
- JJohnson, RII
- JJaudon, RII
- KLandis, RII
- HChristensen, RII
- LWatson, RII

NRC Resident Inspector
 U.S. Nuclear Regulatory Commission
 7585 South Highway A1A
 Jensen Beach, FL 34957-2010

(HOLD FOR 45 DAYS - EICS ACTION)
 Florida Power and Light Company
 ATTN: Mr. T. F. Plunkett
 President - Nuclear Division
 P. O. Box ~~14006~~
 Juno Beach, FL 33408-0420

JXL per telephone

SEND TO PUBLIC DOCUMENT ROOM?		NO					
OFFICE	RII:DRS	RII:DRP	RII:EICS/OE	RII:ORA	RII:OI	RII:ORA	
Signature	<i>JJaudon</i>	<i>JJohnson</i>	<i>ABoland/JLieberman</i>	<i>w/changes</i>	<i>WMcNulty</i>	<i>BHallett</i>	
NAME	JJaudon	JJohnson	ABoland/ JLieberman	CEvans CBE	WMcNulty	BHallett	
DATE	10/ 7 /97	10/ 7 /97	10/ 8 /97	10/ 07 /97	10/ 07 /97	10/ 8 /97	
COPY?	YES NO	(YES) NO	(YES) NO	YES NO	(YES) NO	YES (NO)	

EXTC

ROSS, DIXON & MASBACK, L.L.P.

STUART PHILIP ROSS
GARY V. DIXON
WALLACE A. CHRISTENSEN
JOHN R. GERSTEIN
CATHY A. SIMON
DAVID H. QISCHÉ
RICHARD A. SIMPSON
SEAN W. HANIFIN
PETER G. THOMPSON
ELIZABETH SARAH OCRE
BARBARA C. ETKIND
ROBERT M. POZIN
REBECCA L. ROSS

LEWIS K. LOSS
WILLIAM H. BRIGGS, JR.
CHARLES F. HADDEN
WILLIAM E. O'BRIAN, JR.
LONA TRIPLETT PERRY
ANDREW L. SHAPIRO
MERRIL J. HIRSH
DANIEL J. STANDISH
WILLIAM D. HOPKINS
DAVID R. DWARES
LESLIE B. AHARI
DAVID L. PERRY
GARRICK P. GROBLER

OF COUNSEL
HAROLD E. MASBACK, III
ALEC H. BARINKHOLTZ

601 PENNSYLVANIA AVENUE, N.W.
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WASHINGTON, D.C. 20004-2888
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CHARLES T. BLAIR
LISA A. BURKS
JODI L. CLEESATLLE
PASCAL W. DI PRONZO
JOHN W. DUCKELLE
ELIZABETH B. FITCH
JULIE P. GLASS
JOHN R. GRIFFITHS
DAVID A. HARRINGTON
ERIC M. JAFFE
CHARLES A. JONES
THOMAS J. JUDGE
AMY LEDOUX
JAMES H. LICHTMAN
THOMAS T. LOCKE

MICHELLE L. LYNCH
JENA T. MARTIN
CHRISTINA B. MATHER
JENNIFER MATHIS
STACEY L. MCGRAW
TERRENCE R. MANNIN
EDWARD B. MULLEN, III
LISA M. MURPHY
RICHARD J. PRATT
JEANNINE H. REID
ERIK J. SALOVAARA
RICHARD C. SCAYEY
JEFFREY J. WARD
HELISSA J. WHITE

WRITER'S DIRECT DIAL

NOT ADMITTED IN D.C.

(202) 662-2063

October 15, 1997

VIA FACSIMILE & FIRST CLASS MAIL

Mr. Russell A. Powell
Chief
FOIA Branch
NRC
Mail Stop T6D8
Washington, D.C. 20005

Re: FOIA Request

Dear Mr. Powell:

This is a request for the following documents relating to NRC Investigation Report No. 2-95-034 which concerns [REDACTED] EX7C

1. All statements [REDACTED] made to OI in connection with this matter.
2. The OI report (and supporting evidence) in this matter.

I represent [REDACTED] in connection with this matter. I have requested this same material from the Office of Enforcement ("OE") in Region II. They requested that I file this parallel FOIA request. EX7C

This request is time sensitive. [REDACTED] has received an October 9 letter which contains certain inaccurate facts and conclusions that he must respond to within 30 days (by November 8, 1997). Accordingly, I request that this matter be expedited and that these materials be provided within the next week. Of EX7C

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 7C, 5
FOIA- 98-162

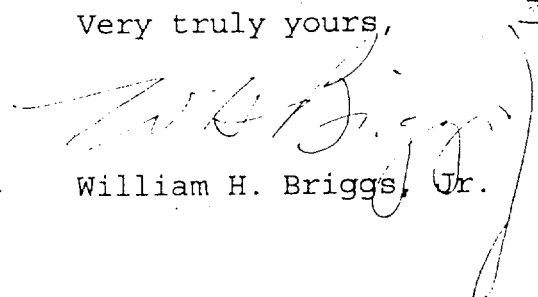
ROSS, DIXON & MASBACK, L.L.P.

Mr. Russell A. Powell
October 15, 1997
Page 2

course, if I can obtain these materials directly from Region II
OE, it will not be necessary for you to respond to this request.

Thank you for your prompt consideration of this request.

Very truly yours,



William H. Briggs, Jr.

cc: Ms. Anne T. Boland
Mr. Bruno Uyrac
Region II, OE

ROSS, DIXON & MASBACK, L.L.P.

STUART PHILIP ROSS
GARY V. DIXON
WALLACE A. CHRISTENSEN
JOHN R. GERSTEIN
CATHY A. SIMON
DAVID M. DISCHE
RICHARD A. SIMPSON
BEAN M. HANIFIN
PETER G. THOMPSON
ELIZABETH SARAH GERE
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ROBERT M. POZIN
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LEWIS K. LOSS
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DAVID R. DWARES
LESLIE B. AHARI
DAVID L. PERRY
GARRICK P. GROBLER

OF COUNSEL
HAROLD E. MASBACK, III
ALEC M. BARNHOLTZ*

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WASHINGTON, D.C. 20004-2888
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IRVINE, CALIFORNIA 92614-8520
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PASCAL W. DI FRONZO*
JOHN W. DUCKELLE
ELIZABETH B. FITCH
JULIE P. GLASS
JOHN R. GRIFFITHS
DAVID A. HARRINGTON
ERIC M. JAFFE
CHARLES A. JONES
THOMAS J. JUDGE*
AMY LEDDOUX*
JAMES H. LIGHTMAN
THOMAS T. LOCKE

MICHELE L. LYNCH*
JENA T. MARTIN*
CYNTHIA R. MATHER
JENNIFER MATHIS*
STACEY L. MCGRAW
TERENCE R. MANNIS
EDWARD B. MULLEN, III*
LIZA M. MURPHY
RICHARD J. PRATT
JEANNINE M. REID
ERIC J. SALOVAARA
RICHARD C. BEAVER*
JEFFREY J. WARD*
MELISSA J. WHITE

WRITER'S DIRECT DIAL

*NOT ADMITTED IN D.C.

(202) 662-2063

October 15, 1997

VIA FACSIMILE & FIRST CLASS MAIL

Ms. Anne T. Boland
Director
Enforcement & Investigations
Coordination Staff
US Nuclear Regulatory Commission
Region 2
Atlanta Federal Center
61 Forsyth Street, S.W.
Suite 23T85
Atlanta, Georgia 30301

Mr. Bruno Uyrac
Enforcement & Investigations
Coordination Staff
US Nuclear Regulatory Commission
Region 2
Atlanta Federal Center
61 Forsyth Street, S.W.
Suite 23T85
Atlanta, Georgia 30301

Dear Ms. Boland and Mr. Urich:

This will follow up on our telephone discussion of this morning, October 15, 1997.

I represent [REDACTED] in connection with the NRC investigation which led to the issuance of Mr. Luis A. Reyes' letter of October 9, 1997. While [REDACTED] appreciates the NRC's decision not to institute individual enforcement action against him, there are inaccurate facts and conclusions in the October 9 letter to which [REDACTED] wishes to respond, as he has been invited to do.

EX-7C

EX-7C

Ms. Anne T. Boland
Mr. Bruno Uyrac
October 15, 1997
Page 2

As I am sure you appreciate, it is very difficult, if not impossible, to provide complete comments on the allegations set forth in the October 9 letter without reviewing the evidence on which those allegations are based. Thus, in order for [redacted] to respond fully to the allegations set forth in the October 9 letter, I request that you provide me with the following documents:

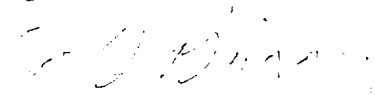
1. All statements [redacted] made to OI in connection with this matter. EX7C
2. The OI report (and supporting evidence) that concludes that "based upon a preponderance of the evidence developed during the investigation, [redacted]" EX7C
[redacted] 70.5

I have represented individual employees of nuclear utilities in past NRC enforcement matters, and I have been given copies of the statements that they made to OI upon request. In addition, in some of these matters I have also been given copies of the OI reports. If there is some problem in obtaining these materials in this case, please let me know at once.

The December 9 letter indicates that any material which [redacted] submits to the NRC should be received within 30 days. Accordingly, I would appreciate your forwarding me the requested documents at once. In the alternative, as you suggested during our phone call, I request an extension of the 30 day comment period (and the 45 day period after which the December 9 letter may be made public). EX7C

Please call me if you have any questions. Thank you for your prompt consideration of this request. At your suggestion, I have also submitted a FOIA request, a copy of which is enclosed.

Very truly yours,


William H. Briggs, Jr.

WHB/jmh
Enclosure
cc: James Lieberman



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
ATLANTA FEDERAL CENTER
81 FORSYTH STREET, SW, SUITE 2514B
ATLANTA, GEORGIA 30303-3415

RII-95-A-0200

October 17, 1997

Mr. William H. Briggs, Jr.
Ross, Dixon & Masback, L.L.P.
601 Pennsylvania Avenue, N.W.
North Building
Washington, D.C. 20004-2190

SUBJECT: REQUEST FOR RELEASE OF INFORMATION ASSOCIATED WITH [REDACTED] EX 7C

Dear Mr. Briggs:

This is in response to our telephone discussions and your letter of October 15, 1997, regarding the Nuclear Regulatory Commission's (NRC) Office of Investigations Report No. 2-95-034. In your letter you stated that you represented [REDACTED] and [REDACTED] wished to respond to our October 9, 1997, letter. This correspondence described the results of the OI investigation of [REDACTED] interface with the NRC during an inspection conducted at Florida Power and Light Company's (FPL) St. Lucie Nuclear Plant in [REDACTED]. In this regard, you requested, on behalf of [REDACTED] that the NRC provide the following documents to support development of your response: (1) all statements [REDACTED] made to OI; and (2) the OI report and supporting evidence in the case.

As discussed during my telephone call with you on October 16, 1997, at this time, we are providing you a copy of the transcribed interviews conducted by OI with [REDACTED] (enclosed). We will also provide the OI report and associated exhibits following review of the report and redaction in accordance with Freedom of Information Act criteria. Recognizing the time required by NRC to complete this process, we are granting an extension to the 30-day response period afforded in our October 9, 1997, letter to [REDACTED]. Specifically, [REDACTED] will have 30 days from the date of the letter transmitting the requested OI report and its exhibits in which to respond. Further, we will withhold all documents from the PDR (and FPL) for 45 days from that date.

If you should have any question regarding this matter, please feel free to contact me at 1-800-577-8510 or 404-562-4421.

Sincerely,

Anne T. Boland, Director
Enforcement and Investigations
Coordination Staff

Enclosure: OI Transcripts

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 7C
FOIA- 95-162

2/24

Distribution w/o encl:

J. Lieberman, OE

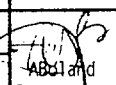
B. Summers, OE

W. McNulty, OI:RII

EA:File, RII

JXL approved release of
Report & statements
on 10/15/97

JXL approve release of
exhibits (after
redaction) 10/16/97
Per T. Reis OE

SEND TO PUBLIC DOCUMENT ROOM?		NO	
OFFICE	RII:EICS		RII:ORA
Signature			NLO CEvans <i>ce</i>
NAME	A. Stand		
DATE	10/17/97		10/17/97
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EX7C



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION II
ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW, SUITE 23T85
ATLANTA, GEORGIA 30303-3415

December 16, 1997

Mr. William H. Briggs, Jr.
Ross, Dixon & Masback, L.L.P.
601 Pennsylvania Avenue, N.W.
North Building
Washington, D.C. 20004-2190

SUBJECT: REQUEST FOR RELEASE OF INFORMATION ASSOCIATED WITH [REDACTED]

EX 7C

Dear Mr. Briggs:

This letter is in response to your letter of October 15, 1997, regarding the Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) Report No. 2-95-034. In your letter you requested, on behalf of [REDACTED] all statements [REDACTED] made to OI as well as the OI report and supporting evidence in the case. You indicated that the information was necessary in that [REDACTED] wished to respond to our October 9, 1997 letter which described the results of the OI investigation of [REDACTED] interface with the NRC during an inspection conducted in [REDACTED] at Florida Power and Light Company's St. Lucie Nuclear Plant.

EX 7C

By letter dated October 17, 1997, I provided you a copy of [REDACTED] transcribed interviews with OI; however, the OI Report and associated transcripts were withheld pending review and redaction of the documents in accordance with Freedom of Information Act criteria. This review is now complete. The report and exhibits with the appropriate redactions are enclosed.

EX 7C

As discussed with you previously, an extension has been granted giving [REDACTED] 30 days from the date of this letter to submit his response to our letter of October 9, 1997. We will also place the original correspondence and any response provided by [REDACTED] in the Public Document Room (PDR) 45 days following the date of this letter unless a sufficient basis is provided to withhold it.

EX 7C

Should you have any questions regarding this letter, please feel free to contact me at 404-562-4421.

Sincerely,

Anne T. Boland, Director
Enforcement and Investigations
Coordination Staff

EX 7C

- Enclosures: 1. OI Report No. 2-95-034 (redacted)
2. Exhibits to OI Report No. 2-95-034 (redacted)

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions b2

FOIA- 98-162

B/22

Distribution w/o encl:

J. Lieberman, OE
B. Summers, OE
W. McNulty, OI:RII
EA:File, RII
O. DeMiranda, RII

Note: FPL
approved release
of Exhibit 17
on 12/16/97

SEND TO PUBLIC DOCUMENT ROOM?		NO	
OFFICE	RII: EICS		RII: ORA
Signature	<i>[Signature]</i>		NO
NAME	ABoland		CEvans <i>[Signature]</i>
DATE	12/12/97		12/12/97
<input checked="" type="radio"/> YES	<input type="radio"/> NO	<input type="radio"/> YES	<input type="radio"/> NO
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EX 7C

ROSS, DIXON & MASBACK, L.L.P.

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IRVINE, CALIFORNIA 92614-8529
(714) 622-2700
FACSIMILE (714) 622-2739

(202) 662-2063

December 29, 1997

VIA FACSIMILE & FIRST-CLASS MAIL

Ms. Anne T. Boland
Director
Enforcement & Investigations
Coordination Staff
US Nuclear Regulatory Commission
Region 2
Atlanta Federal Center
61 Forsyth Street, S.W.
Suite 23T85
Atlanta, Georgia 30301-3415

Re: Request for release of information associated with [REDACTED]
OI Report No. 2-95-034

EX
7C

Dear Ms. Boland:

I reviewed the redacted copy of OI Report No. 2-95-034 that you sent me on December 16, 1997.

As you know I requested this OI Report in order to respond to the serious charges that the NRC made against [REDACTED] in its October 9, 1997 letter. I expected that the report I received would set forth the facts on which the October 9 letter was based and the evidence on which the agency relied when it made its October 9 charges. With all due respect, the redacted report that you sent me on December 9 does neither. In fact, I have combed the report exhaustively and I still cannot determine what [REDACTED] allegedly did that was wrong, who has accused him of wrongdoing, and what the specifics of those accusations are.

EX7C

EX7C

Although the synopsis of the report concludes that [REDACTED] of the report you sent me describes

EX
7C

in accordance with the Freedom of Information Act, exemptions 7C, 1, 5
FOIA- 98-162

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EX7C

B/23

EX
S

ROSS, DIXON & MASBACK, L.L.P.

Ms. Anne T. Boland
December 29, 1997
Page 2

what information [redacted] allegedly withheld or when he allegedly withheld that information.

Moreover, not one word of the report tells [redacted] or me what evidence the NRC is relying on in reaching the conclusion [redacted]

1015 The report does tell us that "[t]he determination of culpability in this matter is less than absolute and rests on one's assessment of the veracity of the accounts provided by [redacted] and by [redacted]" OI Report at 13. Yet the report never provides us any details of what [redacted] unknown accuser allegedly saw or heard or thought s/he saw or heard.

This is serious business. [redacted] has been accused of deliberate misconduct, indeed, even criminal misconduct, by an agency of the federal government. Unless the agency reconsiders its letter of October 9 (and we plan to ask the NRC to do just that on or before January 15, 1998), it will publicly brand [redacted] as a criminal even though it will deny him the opportunity to know the details of what he has been charged with or the evidence that has been used against him. This is contrary to the most basic principles of due process; this is fundamentally unfair.

I urge the NRC to provide [redacted] with the information that has been redacted from the OI Report that you forwarded to me on December 16, 1997. In particular, please reconsider the redactions set forth on pages 7-10 and 13-14 of the OI Report that you sent me. In addition, please reconsider your refusal to send me Exhibits 6-8 and 18 of that Report. [redacted] request for the OI Report is not a simple FOIA request, and you should not consider this the same way as you would consider a FOIA request from a member of the public. This is a request that a man be given the opportunity to face the charges he is accused of and to answer the evidence on which those charges are based. If you are concerned that some confidential information will be compromised, rest assured that it will not be for neither [redacted] nor I have any desire to publicize this matter. Moreover, both [redacted] and I are willing to keep any information you provide us entirely confidential.

I respectfully request that you provide me with this redacted material at once. Unless the NRC agrees to extend the time within which we can respond to the October 9, 1997 letter [redacted] response is due on January 15, 1998. We intend to file a timely response which will ask the NRC to reconsider the false charges it has made in its October 9, 1997 letter. It will

EX7C

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EX7C

EX7C

EX7C

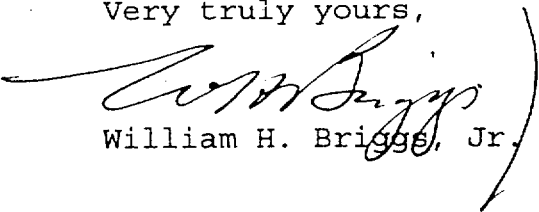
ROSS, DIXON & MASBACK, L.L.P.

Ms. Anne T. Boland
December 29, 1997
Page 3

be difficult, if not impossible, to provide a meaningful, focused response to the October 9, 1997 letter if the NRC refuses to provide the details of the misconduct with which it has accused [REDACTED] for the evidence on which it bases its charges.

Please advise me at once when I can expect the NRC to release the redactions it has made in the OI Report that it forwarded to me on December 16, 1997.

Very truly yours,


William H. Briggs, Jr.

EX7C



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION II
ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW, SUITE 23T85
ATLANTA, GEORGIA 30303-3415

January 9, 1998

Mr. William H. Briggs, Jr.
Ross, Dixon & Masback, L.L.P.
601 Pennsylvania Avenue, N.W.
North Building
Washington, D.C. 20004-2190

SUBJECT: REQUEST FOR RELEASE OF INFORMATION ASSOCIATED WITH [REDACTED]

EX 7C

Dear Mr. Briggs:

This letter is in response to your letter of December 29, 1997, regarding the release of a redacted copy of Office of Investigations (OI) Report No. 2-95-034 and its exhibits to you on December 16, 1997. These documents were released in response to a request from you, on behalf of your client [REDACTED]

EX 7C

In your December 29, 1997, letter, you requested that the NRC reconsider the extent to which the OI Report and Exhibits were redacted and that the excluded information be provided to you so an adequate response to NRC's October 9, 1997, letter to your client could be developed.

During a teleconference conducted on January 8, 1998, between you, me, James Lieberman, Director of the Office of Enforcement, and Carolyn Evans, Region II Counsel, it was explained that no additional information from the OI Report and Exhibits would be provided. In addition, it was explained that the Agency did not take any formal enforcement action against your client (e.g., a Notice of Violation or Order) based on the OI conclusion; however, as enumerated in our October 9, 1997, letter, the Agency is concerned about the inconsistencies in [REDACTED] statements during the described events. Your response, should you provide one, should address this issue.

EX 7C

Lastly, based on the teleconference, an extension has been granted giving [REDACTED] until January 30, 1998, to submit his response to our letter of October 9, 1997. We will also place the original correspondence and any response provided by [REDACTED] in the Public Document Room (PDR) after February 15, 1998, unless a sufficient basis is provided for withholding it.

EX 7C

EX 7C

B124

W. Briggs

2

Should you have any questions regarding this letter, please feel free to contact me at 404-562-4421.

Sincerely,

A handwritten signature in cursive script, appearing to read "Anne Boland".

Anne T. Boland, Director
Enforcement and Investigations
Coordination Staff

Distribution w/o encl:

J. Lieberman, OE

B. Summers, OE

W. McNulty, OI:RII

EA:File, RII

O. DeMiranda, RII

SEND TO PUBLIC DOCUMENT ROOM?		NO	
OFFICE	RII:ESS		RII:ORA
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EX7C

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- B. Summers, OE
- W. McNulty, OI:RII
- EA:File, RII
- O. DeMiranda, RII

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EX7C

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW, SUITE 23T85
ATLANTA, GEORGIA 30303-3415

February 3, 1998

Mr. William H. Briggs, Jr.
Ross, Dixon & Masback, L.L.P.
601 Pennsylvania Avenue, N.W.
North Building
Washington, D.C. 20004-2190

SUBJECT: RELEASE OF INFORMATION ASSOCIATED WITH [REDACTED]

EYTC

Dear Mr. Briggs:

This letter is in response to our discussions on January 8, 1998, regarding the release of additional information associated with Office of Investigations (OI) Report No. 2-95-034. At that time, we indicated that no additional information contained in the OI Report could be released, and that you should actively pursue obtaining information from Florida Power and Light Company (FPL) regarding their investigation into the matter.

Based on your unsuccessful attempts to acquire additional information from FPL, the NRC sought and obtained authorization from FPL to release two pieces of information, a summary of [REDACTED] statements to FPL during its investigation and an electronic mail sent by [REDACTED]. Both of these items are pertinent to statements made by the NRC in our October 9, 1997, letter to [REDACTED]. Subsequently, FPL indicated that they would provide the summary of [REDACTED] statements directly to you; therefore, at this time, we are providing only the electronic mail.

EXTC

EXTC

Lastly, as agreed upon previously, an extension has been granted giving [REDACTED] until February 6, 1998, to submit his response to our letter of October 9, 1998. We will also place the original correspondence and any response provided by [REDACTED] in the Public Document Room (PDR) after March 23, 1998, unless a sufficient basis is provided for withholding it.

EYTC

EYTC

B/25

W. Briggs

2

Should you have any questions regarding this letter, please feel free to contact me at 404-562-4421.

Sincerely,

Anne T. Boland, Director
Enforcement and Investigations
Coordination Staff

Enclosure: As Stated

Distribution w/o encl:

J. Lieberman, OE

B. Summers, OE

W. McNulty, OI:RII

EA:File, RII

Q. DeMiranda, RII

SEND TO PUBLIC DOCUMENT ROOM?						NO
OFFICE	RII:EICS	RII:QI	RII:ORA			
Signature						
NAME	ABoland	W McNulty	CEvans			
DATE	2/ /98		10/ /97			
	YES NO	YES NO	YES NO			
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EX7C ✓

DECLARATION OF [REDACTED]

I, [REDACTED] submit this sworn Declaration to the Nuclear Regulatory Commission ("NRC") in response to the October 9, 1997 letter I received from Mr. Luis A. Reyes ("The October 9 letter").

Ex 7C

INTRODUCTION

1. The October 9 letter is factually wrong, and its conclusions are extremely unfair to me. The letter wrongfully suggests that I [REDACTED] during an NRC inspection in [REDACTED]. It also wrongfully suggests that I [REDACTED] from the NRC's Office of Investigations ("OI") when I was questioned about this incident eight months later. Those suggestions are wrong, and they place a cloud on my personal and professional integrity that could irreparably damage my career and my reputation.

Ex 5
Ex 7C

2. As set forth below, I did not [REDACTED] who conducted the [REDACTED] NRC inspection at St. Lucie. To the contrary, during that inspection I provided the NRC inspector with all materials that he requested that I was able to find while he was at the plant. There was one document that I could not find until after the inspection was over and after the inspector left the plant on [REDACTED]. As the inspector asked me to do, I forwarded that document to the inspector's office in Atlanta after it was located.

Ex 7C

Ex 7C

3. Moreover, as set forth below, [REDACTED] about this matter months after it occurred. I had two interviews with the OI investigator. During

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Ex 7C

the first interview of [REDACTED] I was asked about events EX
that I had not thought about for eight months, and I answered all 7C
the questions I was asked to the best of my recollection at the
time. After this interview, I reflected more on the questions I
had been asked, and I realized that some of the answers I had
given were incorrect. I saw the inspector a week later at the
plant and voluntarily participated in a second interview to EX
correct the record on [REDACTED] 7C

4. For these reasons, which are explained in more detail
below, I ask the NRC to reconsider the October 9 letter and to
withdraw the harmful and false allegations that are set forth in
that letter.

BACKGROUND

5. Prior to discussing the October 9 letter, I want to EX 7C
briefly set forth some background facts about my education, my
work history, and my reputation for honesty and integrity. I do
this to make clear that the allegations in the NRC's October 9
letter are entirely out of character with my professional and
personal life.

EXTC

7. In my position at St. Lucie I have dealt frequently with the NRC. For example, I have supported visiting NRC inspectors during various inspections at the plant, and I have dealt with Resident Inspectors on numerous issues. I have always made it a point to be completely honest, open, forthcoming and cooperative in all of my dealings with the NRC (and with everyone else I deal with). I am confident that the NRC inspectors with whom I have dealt and the FP&L supervisors with whom I have worked will confirm my honesty and integrity. My dealings with the NRC reflect the values I believe in and follow at work and in my personal life. I value my integrity -- both professionally and in my personal life. I have never in my entire career received any form of discipline or been cited for any improper behavior or wrongdoing. [REDACTED] and I would do nothing to cause them harm or pain. [REDACTED]

EXTC

EXTC

THE NRC'S DECEMBER 1995 INSPECTION

8. An NRC inspection was conducted at St. Lucie between [REDACTED] was the NRC

EXTC

inspector [REDACTED]

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EX7C

9. Very late in the inspection -- I believe it was

EX7C

[redacted] asked me to obtain [redacted]
[redacted]
related to [redacted] specific topics, one of which was [redacted]
[redacted] I was able to find [redacted]
[redacted] fairly promptly, and I gave them to [redacted] as soon as
I found them. However, I was unable to locate [redacted]
[redacted] before [redacted] completed his
inspection, conducted his exit interview, and left St. Lucie the

EX7C

10. When I advised [redacted] that I had not been able to

EX7C

locate the [redacted] he indicated that he
was going to cite St. Lucie for a "potential violation" pending
receipt of [redacted] I told him I would continue to look
for [redacted] after he left. He asked me to fax [redacted] to
his office in Atlanta if I found them. I was eager to get him
[redacted] as soon as possible because he made it clear that he
would be able to drop his citation of a "potential violation"
when he received [redacted]

EX

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11. After [redacted]

[redacted] I found the [redacted]
[redacted] and were filed in a
folder with [redacted] I retrieved [redacted]
and sometime later [redacted]
[redacted] obtained the [redacted] from the manager

EX

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who [redacted] As [redacted] requested, I
faxed [redacted] to him after they were located. This fax was
sent to [redacted] the next business
day after the [redacted] were found. Along with [redacted] I also
faxed a position paper which clarified FP&L's position regarding
the license requirements for [redacted]

EY 7C

[redacted]
[redacted] On

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[redacted] called me to confirm his
receipt of the fax and to discuss the position paper. On

[redacted] called me to inform me
that, based upon his review of the faxed materials, he was

dropping the "potential violation" that he had noted at his exit
interview on [redacted]

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OI'S INVESTIGATION

12. Over eight months later, on [redacted] Mr. Craig
Tate of the NRC's Office of Investigations ("OI") asked me if he
could interview me. I immediately agreed to speak with him,
although I did not know what he was investigating or why he
wanted to talk to me. As it turned out, that interview related
to the NRC's [redacted] inspection. Prior to that interview I
did not have the opportunity to review my notes of the NRC's
[redacted] inspection or to refresh my recollection of
anything relating to my involvement with that inspection. I did
not have anything to hide about my actions during that interview,
and during the interview I responded to the best of my
recollection to the questions Mr. Tate asked. Early in the

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interview, once I realized what Mr. Tate's questioning was about, I volunteered my own personal notes from the audit to assist his investigation. We took a short break so I could go to my office to retrieve my notes from [REDACTED] audit. I immediately returned to the interview; however, I did not review those notes in detail or have time to think about the [REDACTED] inspection prior to answering any of Mr. Tate's questions during the rest of the [REDACTED] interview. At the conclusion of my interview with Mr. Tate I even offered him a copy of my notes (Mr. Tate declined).

13. Mr. Tate asked me several questions about when and where I found the [REDACTED] and whether they were [REDACTED] when I discovered them. I answered the questions to the best of my recollection at the time. At one point he asked me if I recalled whether [REDACTED] when I found them. In response, I answered "I believe . . . that they

[REDACTED] I don't remember saying, you know, these aren't [REDACTED] I don't have -- I don't recall anything special about them -- that I had to do anything different." OI Report, Exhibit 9, [REDACTED] Transcript at 7 (emphasis added). Later in the interview Mr. Tate asked me "Do you state again under oath that when you did locate [REDACTED]

[REDACTED] that to the best of your knowledge they in fact were [REDACTED] I answered "Yes, yes." Id. at 8 (emphasis added).

14. That evening, during my [REDACTED] drive home, I had time to reflect on Mr. Tate's questions and the circumstances surrounding my discovery of the [REDACTED]

[REDACTED] It was during that drive that I began to recall the details of finding [REDACTED]. In particular, it was during that drive I remembered [REDACTED] when I first found them (which was after [REDACTED] had conducted his exit interview and left St. Lucie). While I still could not recall all the details of finding [REDACTED] (for example, whether I found them [REDACTED]).

I did recall that [REDACTED] when I first discovered them and that I [REDACTED] after I found them and before they were sent to [REDACTED].

EX7C

EX7C

EX7C

15. Recognizing that my recollections were inconsistent with what I had told Mr. Tate during his interview with me, I contacted FP&L attorney Mitch Ross the next day and discussed the matter with him. I told Mr. Ross about the situation, advised him that I wanted to tell Mr. Tate about my current recollection and that I wanted to correct any incorrect information that I had provided him earlier.

16. Mr. Tate returned to St. Lucie the next week, and we had a second interview on [REDACTED]. During this second interview I explained that I had thought some more about the questions he asked me during the first interview, that I realized some of my initial responses to his questions were not correct, and that I wanted to talk to him again to correct the record. In particular, during this second interview I explained to Mr. Tate that the [REDACTED] when I found them, and that I [REDACTED] before I faxed them to [REDACTED].

[REDACTED] I reiterated to Mr. Tate

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that I was certain that I did not find these [redacted] EX7C
[redacted] left the plant on [redacted]
[redacted] ("Now I want to be clear that [redacted] were not found
until after [redacted] left, of that I am certain. There was
never any delay or stalling or intent to withhold any kind of
information. . . . OI Report, Exhibit 10, [redacted] EX7C
Transcript at 2). While I told Mr. Tate I thought I found the
minutes on [redacted] I also noted that it could have
been after [redacted] left on [redacted]
[redacted] were not located until I believe it was the following
Monday. It's possible I found them that Friday afternoon, but
I'm guessing it happened on Monday. (Id. at 4-5).

THE OCTOBER 9 LETTER

17. The NRC's ~~X~~ October 9 letter says that OI has concluded
that

[redacted] in that on [redacted] you
had [redacted] which
contained a review of [redacted] and EX45
[redacted] 7C
apparently because [redacted] at the time
the request was made.

This conclusion is absolutely wrong. As I have consistently
stated (see, e.g., OI Report, Exhibit 10, [redacted] EX7C
Transcript at 2, 4), I had trouble locating the [redacted]

[redacted] Unlike
the [redacted] which I did locate and provide to [redacted]
[redacted] prior to his exit, I did not initially have a document
number or date to help narrow down my search for the [redacted] EX7C
[redacted] (the document number requested by [redacted] was not

the document that was ultimately [redacted] I had to investigate and determine what the correct document number was before I could then look for the [redacted] As a result, I was required to conduct a manual review of a large number of [redacted] covering a long period of time. I could not find the [redacted]

EX
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[redacted] left the plant the morning of [redacted] When I finally found [redacted] had had his exit interview, had concluded his inspection, had found a "potential violation" because [redacted] were not found, and had left St. Lucie.

EX
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18. I want to emphasize one thing that is significant to me but that seems to have been overlooked by the NRC. Before [redacted] left the plant, he noted a "potential violation" because he had not been given [redacted] showing that [redacted]

EX 7C

[redacted] In other words, I had a strong motive to find those [redacted] and get them to [redacted] as soon as possible. If [redacted] had been given [redacted] he would not have had any basis to cite the plant for a "potential violation."

If I had found [redacted] before [redacted] left the plant on [redacted] I would have turned them over on the spot, even if [redacted] were found in

EX
7C

a folder with many other [redacted] that had been typed and were simply awaiting [redacted] I certainly would not have had

[redacted] find a "potential violation" at the plant simply because there had been an administrative delay in getting a [redacted]

To the contrary, I did not believe

that there was any regulatory significance to the fact that the

[redacted] therefore, I had no conceivable
reason to withhold [redacted] if I had found them
while he was at the plant. The truth is I did not have the
[redacted] so I could not give them to [redacted]

EX 7C

19. The October 9 letter further notes:

Even if you did not have [redacted] at [the] time of the
NRC exit interview of the morning of [redacted] you
[redacted], as evidenced
by a computer "e-mail" message issued by you at that time.
However, you [redacted]
You later had [redacted] and faxed to the NRC on the
following Monday. [redacted]
that [redacted] when you found them.

EX 7C

This statement suggests that I should have sent [redacted] to

[redacted] as soon as I found them [redacted] and

that my failure to do so was wrong. It also suggests that I

should not have gotten [redacted] before I sent them to

[redacted] or that I should have disclosed that fact to him when

I faxed him [redacted].

EX 7C

20. When [redacted] left St. Lucie on [redacted]

he asked me to fax the [redacted]

[redacted] to his office in Atlanta if I found them. I did not

send [redacted] because he

was leaving the plant that day [redacted] as the October 9

letter incorrectly states) and I did not expect him to return to

his office until the following business day, [redacted]

I took the time Friday to prepare a position paper to be faxed

along with [redacted] See ¶ 11, above. This position paper

was reviewed by my management who understood that it would be

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faxed along with [redacted] Thus, [redacted] were not faxed [redacted] because: (1) I knew [redacted] was not in EX7C
his office to receive them; (2) [redacted] did not instruct that
they be faxed immediately upon discovery; (3) there was no public
health and safety, NRC, or FP&L requirement to fax them
immediately; and (4) I prepared the position paper related to [redacted]
[redacted] concerns (a practice which is typical when addressing NRC
questions or concerns) to accompany [redacted] so that [redacted]
would have all documents relating to the [redacted] EX7C
[redacted] at one time. [redacted] and accompanying position paper
were faxed to [redacted] the very next working day, [redacted]

21. I did not tell [redacted] that [redacted]
when I found them or that [redacted] before I sent them to EX7C
him, because I did not understand that those facts were
significant to anything [redacted] was looking at or, in fact, to
anything else. I emphatically was not trying to hide anything
from [redacted] or anyone else, by not volunteering this
information. At the time I found [redacted] I attached
absolutely no substantive significance to the fact [redacted]
[redacted] When I found them, [redacted] were in a folder
with [redacted] I
understood at that time (and it is still my understanding today)
that all the [redacted] had been prepared after the EX
7C
[redacted] in question and that all [redacted]
[redacted] by the Plant General Manager. Of course, I did not change
one word of the substance of [redacted] all I did was obtain

[redacted] which would have been obtained later as part of the normal administrative process. I did not think that there was anything wrong or deceptive about obtaining [redacted] I did not understand that the presence or absence [redacted] was material to anything that [redacted] was inspecting. Nor did it dawn on me that someone might think that I was being deceptive because I completed the process of getting [redacted] before I sent them to [redacted] or because I did not tell him when the [redacted]

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22. The October 9 letter also says

Your initial statements made on [redacted] under oath were unequivocal with regard to your finding [redacted]. In subsequent interviews by the NRC and your employer, your explanation changed. It appears that [redacted] and your employer's [redacted] concerning when you found [redacted] and the substance of your conversations with your supervisors. We are particularly concerned that [redacted] Your [redacted] regarding this matter [redacted] expected of employee in the nuclear industry.

EX
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This statement [redacted] when I first was interviewed by Mr. Tate on [redacted] as the October 9 letter incorrectly states). Mr. Tate's interview came out of the blue; I was not expecting to be asked questions about something that had happened eight months earlier, and I had

EX
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I have since learned that OI looked into this issue and concluded that "existing procedures do not stipulate a time requirement for [redacted] and, therefore, a document [redacted] on [redacted] redaction] does not constitute a violation of procedure (Exhibits 4 and 5)." OI Report at 9. Thus, OI confirmed what I believed at the time to be true, that there is no regulatory significance to the delayed [redacted]

EX 7C

not reviewed my notes or even thought about the events of

[REDACTED] when I first talked to Mr. Tate on [REDACTED]

My interview makes clear that I was answering Mr. Tate's questions to the best of my knowledge and recollection at that time. On the way home from work, after my first interview with Mr. Tate, I began to think back over the facts and sequence of events that led to my finding [REDACTED] in question. As my

EX7C

recollection became sharper, I realized I had given some mistaken answers to Mr. Tate. The next day [REDACTED] I

told FP&L attorney Mitch Ross what had happened and told him I would like to correct the mistaken information I had given Mr.

EX7C

Tate the day before. The next week I saw Mr. Tate when he

returned to the plant on [REDACTED]. He indicated that he wanted to speak with me again, and I indicated that I had

given our initial interview some more thought and wanted to

correct some mistaken information I had given him in our first

interview. As noted above, in the second interview, I told Mr.

Tate I had given him some [REDACTED] in my first

interview and that, upon reflection, I realized [REDACTED] had

EX7C

not been signed when I originally found them.

23. The statement also wrongly implies that [REDACTED]

[REDACTED] to my employer about this matter. Although the OI Report I was initially provided did

not include any information about what I allegedly told FP&L, On

February 3, 1998 I was given, for the first time, excerpts from

EX7C

an FP&L [REDACTED] that purport to set forth information

that I allegedly told FP&L about this matter. I have never seen

any actual statement that I allegedly made to FP&L (I don't even know that there is a recording or a verbatim transcript of any interviews I had with FP&L); I have never even seen any notes taken at the time I was interviewed by FP&L; and I did not make any notes of my interview with FP&L. All I have ever seen is the excerpts from the [redacted] that were prepared by someone at FP&L and that purport to characterize what I allegedly told the [redacted] investigator. The excerpts that I have been given correctly note that I found the [redacted] after the NRC inspector left St. Lucie; that [redacted] when I found them; that I got [redacted] and faxed them to the NRC after I found them; and that I had a second interview with OI during which I corrected some incorrect information that I provided to OI during my first interview. However, the excerpts that I have been given also report that I allegedly told FP&L that I thought that I found and faxed the [redacted] [redacted] I did not find or fax the [redacted] and I have no idea why the [redacted] states that I did. I never told OI that I found or faxed the [redacted] on that date; and I do not believe I ever told FP&L that I found or faxed the [redacted] on that date. If I did, however, I made an honest mistake and not an intentional misrepresentation. There is an e-mail that demonstrates that the [redacted] were found on [redacted] the actual fax that was sent to the NRC shows that it was sent on [redacted]. Most importantly, I had no reason to [redacted] to anyone that I found or faxed [redacted] on [redacted].

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EX 7C

[redacted] I don't know why the [redacted] has
the [redacted] date -- it was either an honest mistake by
the author of the report or I may have had the date confused when
I talked to the interviewer. Regardless of how this mistake
occurred, I can say with absolute confidence and complete
certainty that [redacted]
[redacted] and I did not [redacted]
[redacted] to anyone the date when I found [redacted] or
when I faxed them to the NRC.

EX7C

EX7C

24. The ~~October 9~~ letter concludes by stating:

We expect that in the future your communications with any
representative of the NRC will be complete and accurate and
if you determine that such communications have not met that
standard, you will promptly notify the Commission.
(Emphasis added).

That ~~is~~ exactly what I did in this matter. When I realized I had
made a mistake, I contacted OI to correct the mistaken testimony
I originally gave. Now my candor in trying to set the record
straight is being used against me to support the false accusation
[redacted] about this matter.

25. In short, the inconsistent statements in my interviews
are the result of honest mistakes I made in my first interview
(for which I had absolutely no preparation) and which I candidly
corrected in my second interview (after I had a chance to reflect
on the events from eight months earlier). [redacted]

[redacted] and it is wrong for the NRC's ~~October 9~~ letter to
suggest that I did.

CONCLUSION

26. The original allegation [redacted] was found by OI to be unsubstantiated. OI's investigation then shifted to determine whether or not [redacted]

EXTC

An internal FP&L investigation could not substantiate this allegation. Nothing I have said in any of my interviews with OI can support this allegation. I have been [redacted] and the apparent basis for this accusation is because [redacted] when I found them. This basis makes no sense for two reasons: (1) my motivation would have been to provide this information to the NRC inspector, not to withhold it, in order to avert a "potential violation" that [redacted] was threatening because he thought that [redacted] and (2) the fact that [redacted] was immaterial to the NRC inspection and, indeed as validated by OI's own investigation, was not of regulatory concern to the NRC. The fact of the matter is that I did not have [redacted] until after the NRC inspector had left the site and OI has provided absolutely no evidence to the contrary -- nor could it consistent with the truth.

EXTC

27. The ~~X~~ October ~~X~~ letter publicly suggests that [redacted] and of [redacted] and others about an incident that occurred in [redacted]. These are absolutely false charges. I have made every effort to live each day of my life with integrity and honesty. To suggest that I would act in an unscrupulous manner in order to protect

EXTC

FP&L from some regulatory action is contrary to my work ethic and practice. [REDACTED] EX

[REDACTED] I have never TC
hesitated to raise issues or express opinions that some might
view as being "unpopular" with plant management [REDACTED]

[REDACTED] EX TC
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
My record and my reputation demonstrate the importance
that I place in my integrity and my honesty. The ~~October 9~~
letter threatens to destroy all of that; it is based on erroneous
inferences and "facts" that are simply untrue.

28. I urge you to withdraw the ~~October 9~~ letter. False
accusations are easy to make and, in the minds of many, they will
be impossible to rebut. Please do the right thing in this case.
Do not issue a letter which is untrue and which threatens to
destroy my career and my reputation.

I declare under penalty of perjury that the foregoing is true and correct.



EX7C

February 4, 1998

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February 5, 1998

VIA FEDERAL EXPRESS

Mr. Luis A. Reyes
Regional Administrator
Nuclear Regulatory Commission, Region II
Atlanta Federal Center
61 Forsyth Street, SW
Suite 23T85
Atlanta, Georgia 30303

Re: NRC Investigative Report No. 2-95-034

Dear Mr. Reyes:

This letter and the accompanying Declaration of [REDACTED] Declaration"), Attachment A, respond to the Nuclear Regulatory Commission's ("NRC") letter of October 9, 1997 ("the October 9 letter"), Attachment B. If not explicitly, then certainly by any fair implication, the October 9 letter accuses [REDACTED] of [REDACTED]. As set forth below and in the [REDACTED] Declaration, these charges are both unfair and incorrect. Accordingly, [REDACTED] requests that the NRC withdraw the October 9 letter and any and all accusations that [REDACTED] has engaged in any wrongdoing of any kind. EYK

INTRODUCTION

The October 9 letter publicly reports that "OI concluded that ... you [REDACTED] that "your [REDACTED] statements made under oath [REDACTED] and that "your [REDACTED] communications regarding this matter did [REDACTED] expected of employees in the nuclear industry." Attachment B at 1-2. The October 9 [REDACTED] E45 EYTC

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Mr. Luis A. Reyes
February 5, 1998
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letter strongly implies that [redacted] conduct [redacted]

EX
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The October 9 letter then observes that [redacted]

EXS

" Attachment B at 2. Nevertheless, the letter warns that "[f]ailure to meet the Commission's requirements for [redacted]

Id.

In short, the thrust of the October 9 letter is that [redacted] has committed [redacted] but that the NRC has magnanimously decided not to take any administrative or criminal action against him.

EX 7C

DISCUSSION

The October 9 letter is both unfair to [redacted] and inaccurate in concluding that he has engaged in any [redacted]

EX 7C

1. The October 9 letter is fundamentally unfair to [redacted]

EX 7C

The October 9 letter is based on a report prepared by the NRC's Office of Investigations ("OI"). In order to understand the charges against [redacted] and to permit him to directly respond to the accusations and evidence against him, I requested a copy of the OI report on October 15, 1997. On December 16, 1997, portions of that report were forwarded to me; however, the most important portions of the report were withheld by the NRC.

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Indeed, not one word of the report that the NRC released tell [redacted] or me what evidence the NRC is relying on in reaching the conclusion that some unidentified information was [redacted] by [redacted] at some unknown time. Moreover, while the report states that "[t]he determination of culpability in this matter is less than absolute and rests on one's assessment of the veracity of the accounts provided by [redacted] and by [redacted]. OI Report at 13, the report that was released to [redacted] does not provide any

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details of what [redacted] unknown accuser allegedly saw or heard or thought s/he saw or heard.

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On December 29, 1997, I requested the NRC to reconsider its decision to withhold these critically important portions of OI's Report and to permit [redacted] to face his accuser and to respond to the evidence that is being relied on by the NRC to wrongfully accuse him of [redacted]. On January 9, 1998, the NRC denied that request.

EX 7C

In short, the NRC threatens to publicly brand [redacted] as a [redacted], while denying him the opportunity to know the details of the charges against him, to face his accuser, and to respond directly to the evidence that has been wrongly used against him. This is contrary to the most basic principles of due process; this is fundamentally unfair.

EX 7C

2. The October 9 Letter Is Absolutely Incorrect In Concluding That [redacted] Has [redacted]

EX 7C

The attached [redacted] Declaration carefully sets out the facts in this matter. Attachment A. The NRC should refer to the [redacted] Declaration for a complete and accurate statement of what happened in this matter. In summary, the facts are as follows:

EX 7C

(a) [redacted] did not deliberately withhold anything from the NRC. The October 9 letter states that "OI concluded that based on a preponderance of the evidence developed during the investigation [redacted] in that, on [redacted] [sic], [redacted] had [redacted]...."

EX 7C

Attachment B at 1. OI's conclusion, which the NRC threatens to make public in the October 9 letter, is absolutely false. In fact, [redacted] did not find the [redacted] until after the NRC inspection was concluded on [redacted] and until after the NRC inspector had left St. [redacted] Declaration, Attachment A at 9-2, 9-11, 17-18.

Utterly missing from the OI Report on which this false charge is based is any analysis of why OI believes that [redacted] would have risked his reputation and his career by lying to the NRC inspector about whether he had found the [redacted]. The indisputable fact is that [redacted] had absolutely no motive to withhold the [redacted] to the contrary.

EX 7C

Mr. Luis A. Reyes
February 5, 1998
Page 4

the only incentive that [redacted] had was to locate [redacted] and get them to the NRC as soon as possible. In this regard, the NRC inspector had specifically advised [redacted] that he was going to cite St. Lucie for a "potential violation" because the [redacted] in question had not been found. [redacted] Declaration, Attachment A at ¶ 10, 18. [redacted] could have ended any talk about a "potential violation" by simply producing [redacted] in question. He did not produce [redacted] before the NRC inspector left St. Lucie because he did not have [redacted] before the NRC inspector left St. Lucie. EX7C

(b) [redacted] did nothing wrong by getting [redacted] before he sent them to the NRC. The October 9 letter states that after [redacted] "[y]ou later had [redacted] and faxed to the NRC on the following Monday. You made no attempt to inform the NRC that these [redacted] had not [redacted] when you found them." Attachment B at 1. While this statement is true, it absolutely does not suggest that [redacted] is guilty of any wrongdoing. EX7C

After [redacted] found [redacted] he noted that they had not [redacted] so he completed the normal administrative process and obtained [redacted] of the St. Lucie official who [redacted] in question. [redacted] did not alter the substance of [redacted] in any respect; he did not change one word of [redacted] that he found and that had been prepared months earlier. EX7C

[redacted] attached absolutely no regulatory significance to the fact that [redacted] in question had been prepared, but not yet [redacted] by the appropriate agency official. [redacted] Declaration, Attachment A at ¶ 21. Indeed, there is absolutely no regulatory significance to this fact. This is a matter that OI looked into in great detail and concluded was not a violation of any NRC or utility requirement. The OI Report makes it absolutely clear that "existing procedures do not stipulate a time required for the [redacted] and, therefore, a document [redacted] [redaction] does not constitute a violation of procedure (Exhibits 4 and 5)." OI Report at 9. EX7C

(c) [redacted] did nothing wrong by not sending [redacted] to the NRC until the next business day after he found them. The October 9 letter notes that "[e]ven if you did not have [the [redacted] at [the] time of the NRC exit interview on [redacted]" EX7C

Mr. Luis A. Reyes
February 5, 1998
Page 5

the morning of [redacted] [sic], you had them at least by about 2:30 p.m. that day....However, you did not take prompt action to notify the NRC." Attachment B at 1. Again, this is not an accusation of any wrongdoing by [redacted]

EX7C

There was absolutely no NRC or FP&L requirement for [redacted] to send the NRC the [redacted] as soon as they were found on [redacted]. The NRC inspector simply asked to get a copy of [redacted] when they were found so that he could reconsider the "possible violation" he had noted during his exit interview on the morning of [redacted]. The NRC inspector did not instruct [redacted] to send [redacted] to him the instant they were found; in fact, when they were located by [redacted] the inspector had just left the St. Lucie plant and was not due back to his office until the next business day [redacted]. After [redacted] found [redacted] in question, he and others at FP&L prepared a written response to the "possible violation" the NRC inspector had raised concerning the [redacted]. That response and [redacted] in question were faxed to the NRC inspector as a single package on [redacted] the next business day after [redacted] were found. There is absolutely no wrongdoing that can or should be implied from the fact that [redacted] did not send the [redacted] to an empty NRC office the instant he found them on [redacted]

EX7C

EX7C

(d) [redacted] did not [redacted]. The October 9 letter also accuses [redacted] or [redacted] by stating that "you provided [redacted] on several occasions We are particularly concerned that your statements made under oath [redacted]." Attachment B at 1. In fact, the first time that [redacted] was ever questioned about the circumstances under which he found the [redacted] was over eight months after he had located those [redacted] and provided them to the agency in [redacted]. He was asked to give a statement under oath by an OI investigator; he readily agreed to the request even though he had no advance warning about the subject and he had not thought of the events of [redacted] since they had happened.

EX7C

During his initial interview with OI, [redacted] made clear that he was testifying from memory, to the best of his present recollection, and during that interview [redacted] mistakenly testified that the [redacted] when he found them. Shortly after that first interview [redacted]

EX
7C

Mr. Luis A. Reyes
February 5, 1998
Page 6

thought more about the circumstances surrounding the finding of the [redacted] realized he had made [redacted] and one week later, the next time he saw the OI investigator, he volunteered that he had [redacted] and he asked to be permitted to [redacted] Declaration, Attachment A at ¶ 22. EX 7C

In short [redacted] has done nothing wrong in this matter. The October 9 letter is wrong in concluding that he has. To make the false charges in that letter public would serve no legitimate regulatory purpose. Indeed, such action would violate [redacted] clearly established constitutional right to due process of law and would plainly cause unnecessary harm to an honest man. EX 7C

3. The October 9 Letter Vividly Illustrates That People Can And Do Make Mistakes

As noted above, the October 9 letter admonishes [redacted] that his "[f]ailure to meet the Commission's requirements for [redacted] Attachment B at 2. No one disputes that all communications with the NRC should be complete and accurate. Indeed, [redacted] has always been honest and accurate in dealing with the NRC; he was in this matter; and he will continue to be in the future. EX 7C

But to suggest that [redacted] has [redacted] in this matter is wrong. At most what is at issue here is an honest mistake that [redacted] made in his initial OI interview. If the October 9 letter demonstrates anything, it demonstrates that we are all human, and human beings make mistakes. Indeed, wholly apart from the erroneous conclusions that it reaches, the October 9 letter makes at least four plain and simple factual errors. EX 7C

(a) The time and date of the NRC exit interview. The October 9 letter states that the NRC exit interview was conducted "on the morning of [redacted] Attachment A at 3. In fact, it is absolutely undisputed that exit interview was conducted on the morning of [redacted] not [redacted] See OI Report and [redacted] Declaration. EX 7C

(b) The date of the referenced e-mail. The October 9 letter states that [redacted] had the [redacted] in question "at least by about 2:30 p.m. that day [redacted] as EX 7C

Mr. Luis A. Reyes
February 5, 1998
Page 7

evidenced by a computer 'e-mail' message issued by you [redacted] at that time." Attachment B at 1. In fact, the referenced e-mail is dated [redacted] See Attachment C. EX7C

(c) [redacted] initial OI interview. The October 9 letter states that [redacted] initial statements made on 1996 under oath were unequivocal with regard to your [redacted] finding the [redacted] Attachment B at 1. This statement is plainly erroneous for two reasons. EX7C

(1) First, [redacted] initial statement in this matter was made on [redacted] OI Report at Exhibit 9. EX7C

(2) Second, and more importantly, the transcript of that interview makes clear that [redacted] was not "unequivocal" about whether [redacted] when he found them. To the contrary, he had not thought about finding [redacted] for over eight months and he made clear that his testimony was based on his best recollection at that time. [redacted] Declaration, Attachment A at ¶¶ 12-13. OI Report at Exhibit 9 ("I believe... that they [redacted] I don't remember saying, you know, these [redacted] ... I don't recall anything special about them. (page 7); "To the best of [my] knowledge they in fact were [redacted] (page 8); "I think we've discussed everything to the best of my recollection." (page 9) (emphasis added). Of course immediately after [redacted] reflected on the matter and remembered that he had, in fact, found [redacted] he sought out a second interview with OI to [redacted] Declaration, Attachment A at ¶¶ 14-16, 22. EX7C

It is, at the least, ironic that the NRC castigates [redacted] for not being [redacted] in this matter yet it levels these serious charges in a letter that contains factual assertions that can be documented as incorrect. The October 9 letter makes these mistakes even though it was reviewed by six separate NRC offices before it was sent to [redacted] Exhibit B at 4. The mistakes remain uncorrected to this date, even though the October 9 letter was apparently sent to 32 separate NRC officials and offices when it was sent to [redacted] Id. In contrast, [redacted] mistaken testimony came when he agreed to testify about a matter eight months after it happened and with absolutely no preparation or even advance notice of the subject about which he would be questioned. EX7C

Mr. Luis A. Reyes
February 5, 1998
Page 8

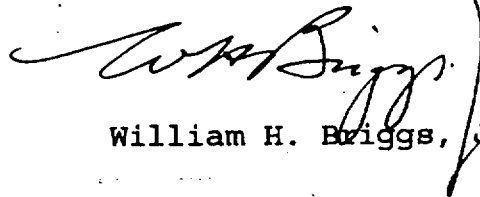
CONCLUSION

The NRC has enormous power over the lives of people who have chosen to work in the nuclear industry. It also has the responsibility to exercise that power wisely and fairly. If the October 9 letter is made public, the NRC will have failed in this responsibility. The October 9 letter unfairly

It does so based upon hidden evidence and erroneous facts. The agency's actions in this matter are wrong -- but fortunately for everyone the NRC has the time and the opportunity to correct its error.

On behalf of [redacted] I implore the NRC to do the right thing. The October 9 letter should be withdrawn in its entirety, and this matter should be closed out without further delay. If you have any questions, we remain now, as we have always been, available and eager to answer them. EY7C

Very truly yours,



William H. Briggs, Jr.

WHB/jmh
Enclosures

From: Scott Sparks, RII
To: Panel Distribution, ATP1.MXT2, TPJ, ATP1.WBG, ATP1...
Date: 2/9/98 1:26pm
Subject: REGION II ENFORCEMENT PANEL AGENDA

The RII enf. panel will be conducted Wednesday 2/11 at 1:00 pm in the DRP conference room. The Bridge # is 901-415-7605 (pass code [redacted]). The preliminary agenda is as follows:

EX. 2

1:00 NFS - 70.9 issue

1:30 St. Lucie caucus [redacted] response - OI attendance is requested.

EX. 7C

There are 2 attachments to this e-mail. Other information to be [redacted]

Jan
PM - Wrens 1495
PD - Heddon 2024

Information in this record was deleted in accordance with the Freedom of Information Act, exemptions b7C
FOIA- 98-162

B/29

FOR INTERNAL USE ONLY
EICS ENFORCEMENT WORKSHEET
EICS MEETING NOTES AND DOCUMENTATION OF UNDERSTANDING

EA NUMBER: 97-451
FACILITY: St Lucie
SUBJECT: document info - Individual

ATTENDEES:
Johnson Shinner
McNulty From
T Johnson Peckla
Holly Watson
Thomas
Tate
McNulty

- PANEL PEC CAUCUS
- OI BRIEF RA BRIEF
- OTHER _____

INSPECTION END DATE: _____
PREPARED BY: L Watson

DATE: 2/11/98 TIME: 2:00 PM

I. EICS STAFF NOTES:

[REDACTED]

Facts are based on

Sufficient reason not to put in public document room

Raised uncertainties

[REDACTED] gave licensee letter from NRC.

Considered your response against evidence and concluded that w/d is warranted. A copy of their response will be placed in file.

consider matter closed

taking no further action - accept his explanation

Do not get into the facts

informal submittal to OGC/OE - concurrence required.

Reyes will sign

Information in this record was deleted in accordance with the Freedom of Information Act, exemptions 7C, 7D, 5 FOIA- 98-162

NOT FOR PUBLIC DISCLOSURE WITHOUT THE APPROVAL OF THE REGIONAL ADMINISTRATOR, REGION II

EX 7C unless otherwise noted B/30

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ENFORCEMENT ACTION WORKSHEET

EICS MEETING NOTES AND DOCUMENTATION OF UNDERSTANDING

II. RISK ASSESSMENT

III. CIVIL PENALTY ASSESSMENT PROCESS

A. First non-willful SL III violation in 2 years/2 inspections? YES or NO

Previous escalated cases:

B. Identification Credit? YES or NO - N/A

NRC identified?

Licensee identified?

Revealed through an event?

Prior Opportunities?

C. Corrective action credit? YES or NO - N/A

Immediate corrective actions:

Long term corrective actions to prevent recurrence:

Reason for corrective action credit:

D. Discretion applied? YES or NO Reason why:

E. Civil Penalty: _____

F. Recommendation for predecisional enforcement conference:

G. Lessons Learned Action Items:

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ENFORCEMENT ACTION WORKSHEET

EICS MEETING NOTES AND DOCUMENTATION OF UNDERSTANDING

NOTE: Complete the following information for each violation

APPARENT VIOLATION: _____

IV. Documentation of Enforcement Panel/Caucus Understanding

- A. Preliminary Severity Level (Prior to Application of any Discretion, From Part I) _____
- B. Increase Severity Level based on Aggregation? _____
- C. Increase Severity Level for Repeat Violations? _____
(Address requirements of ROI 0903)
- D. Increase Severity Level for Willfulness? _____
- E. SEVERITY LEVEL _____ SUPPLEMENT/SECTION _____
- F. Recommended Civil Penalty _____
- G. Predecisional Enforcement Conference Necessary? _____
- H. Revision to Draft NOV Required? _____
- I. Formal Review by OE Required? _____
- J. Special Action Items/Message to Licensee/Comments:

FOR INTERNAL USE ONLY

ENFORCEMENT ACTION WORKSHEET

EICS MEETING NOTES AND DOCUMENTATION OF UNDERSTANDING

FACILITY: _____

EA NUMBER: _____

PAGE NO: _____

Lined area for notes and documentation.

NOT FOR PUBLIC DISCLOSURE WITHOUT THE APPROVAL OF THE REGIONAL ADMINISTRATOR, REGION II

TO: Anne

FROM: Terry

()

EA REQUEST & ENFORCEMENT STRATEGY FORM

Del Case: _____ 1st Panel: _____ Post Board/Panel: _____ Re-Panel: Post Caucus: _____ Re-Caucus: _____ Other: _____

EA 97-451

EATS Data Entry Information

Today's Date: 2/11/98 Region: II Case Type: I Small Entity No Yes
Licensee: Individual - [Redacted] Facility (Unit)/Location: St. Lucie
Doc. No.: 50-335 Last Day of Insp.: Oct 9, '97 ID Date: Oct 9, '97
Date of Ref.: _____ OI Rpt No.: 8/22/97 OI Rpt Date: _____ Conference Closed?: _____

Summary of Facts: Individual allegedly [Redacted]
NRC was not able to substantiate. NRC sent strongly worded letter to individual and it was submitted by individual and his attorney.
Inspection Rpt No. _____ Keywords for SLIVs and NCVs: _____

REMARKS FOR EATS ON BACK

ES: _____

EX 7C

7C

1. SL _____ Supp _____

Details: Action: letter to be withdrawn, not placed in the PDR and a copy of individual's response will be archival with NRC's letter.

SL _____ Supp _____

Details: _____

SL _____ Supp _____

Details: _____

- 2. Risk Significant Case? Yes No: _____
- 3. Prior Escalated Action? No Yes EA: _____ Date: _____
- 4. Lic. ID? No Yes / Lic. Credit No Credit Inad. Info NA Explain: _____
- 5. Corrective Action? Lic. Credit No Credit Inad. Info Explain: _____
- 6. Conference Needed? No Yes Explain: _____
- 7. CP? No CP Base CP Double Base CP Other: _____
- 8. Discretion or Order Needed? No Yes Explain: _____
- 9. Willfulness involved? No Yes OI Coordinated: _____ Needs OI Coordination
- 10. Program Office Represented? No Yes: _____ 11. OOC Represented? No Yes: _____
- 12. Action? No violation Re-panel Conference Letter Choice Letter SL IV NOV Re-Caucus Region Issues Esc. Action
 Submit to OE for Quick Review Submit to OE for Full Package Review DEDO Review Commission Disagreement
 Other: _____

Information was reviewed and was deleted
In accordance with the Freedom of Information
Act, exemptions 7C
FOIA- 98-162

14. Approved: JT
Date: 2/11/98
Faxed: _____

(F)

NOTICE TO DISTRIBUTION LIST:

The attached document withdraws a letter associated with a predecisional enforcement decision. Please ensure that the copy of the October 9, 1997 letter which was previously sent to you, is destroyed, as appropriate. As indicated, copies of these documents will be retained in NRC internal files

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions b7c
FOIA- b7-1e2

B132



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW, SUITE 23T85
ATLANTA, GEORGIA 30303-3415

92E908

February 23, 1998

IA 97-078

[REDACTED]

[HOME ADDRESS DELETED
PURSUANT TO 10 CFR 2.790]

EX 7C

SUBJECT: NRC INVESTIGATION REPORT NO. 2-95-034

[REDACTED]

EX 7C

Thank you for the response provided by your attorney, Mr. William Briggs, Jr., on February 5, 1998, to our letter of October 9, 1997 concerning the subject Office of Investigations report. After careful consideration of the explanation of the [REDACTED] events provided in your response, and consultation with the Director, Office of Enforcement, I have concluded that the October 9, 1997 letter should be withdrawn. Accordingly, the October 9, 1997 letter, your response to it, and this letter will not be placed in the Public Document Room or provided to Florida Power and Light Company; however, these letters along with the OI report will be retained in internal NRC files. We consider this matter closed.

Sincerely,

Luis A. Reyes
Luis A. Reyes
Regional Administrator

cc w/[HOME ADDRESS DELETED]:
William H. Briggs, Jr.
Ross, Dixon and Masback, L.L.P.
601 Pennsylvania Avenue, N.W.
North Building
Washington, D.C. 20004-2190

EX 7C

7C

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 U.S. Nuclear Regulatory Commission
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NAME	JJaudon	LPlisco	ABoland	SLieberman	CEvans	WMcNulty	JJohnson	
DATE	02/18/98	02/16/98	02/16/98	02/20/98	02/18/98	02/1/98	02/1/98	
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DATE	02/ /98	02/ /98	02/ /98	02/ /98	02/ /98	02/ /98	02/ /98		
COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO		

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See concurrences for address copy. EXTC

1-200780

H

ESCALATED ENFORCEMENT ACTION
PROCESSING SHEET

EA 97-451

FLORIDA POWER & LIGHT COMPANY
ST. LUCIE

ACKNOWLEDGEMENT LETTER WITHDRAWING PREVIOUS LETTER

CONCURRENCE ROUTING:	INITIALS	DATE
PLISCO:	<i>[Signature]</i>	2/14/98
<i>jp</i> JAUDON:	<i>[Signature]</i>	2/18/98
BOLAND:	<i>[Signature]</i>	2/18/98
EVANS:	<i>[Signature]</i>	2/18/98
MCNULTY:	<i>[Signature]</i>	2/20
RETURN TO WATSON		
JOHNSON:	<i>[Signature]</i>	2/23/98
REYES:	<i>[Signature]</i>	

STATUS: FINAL CONCURRENCE BEFORE ~~OR QUICK REVIEW~~

Heller *2/23*

when you finish proofing,
call Linda for a dated copy of
the letter

Pad

Total Days Open 828
 Recd/Entered 12/21/95 2/29/96
 Date Closed 3/28/98

CLOSED CASE CHRONOLOGY

RII-1995-A-0200

Saturday, March 28, 1998

2-95-034

CONCERN NO.	ACTION NO.	PERSON ASSIGNED	DATE ASSIGNED	DATE DUE	DATE COMPLETE	DAYS TO COMPLETE
1	10	DEMIRANDA	3/27/98	3/28/98	3/28/98	1
Review submittal SAC FINAL QA AUDIT OF CASE FILE						
	5	BOLAND	9/10/97	3/31/98	3/27/98	198
Enforcement Action ALLEGATION SUBSTANTIATED. NO ENFORCEMENT ACTION. EICS PREP LETTER FOR RELEASE OF OI SYNOPSIS (INV ACTION COMPLETE) TO LICENSEE AND T [REDACTED] THRU OI.						
	8	LANDIS	2/23/98	3/23/98	3/27/98	32
Closure Letter PREPARE CLOSURE DOCUMENTATION RELEASING OI SYNOPSIS TO THE LICENSEE AND TO THE CS.						
	7	BOLAND	2/23/98	2/23/98	2/23/98	0
Enforcement Action LETTER FROM REYES TO THE SUBJECT OF THE ENFORCEMENT ACTION CONCLUDING THAT THE 10/9/97 ENF LTR SHOULD BE WITHDRAWN. NOTE: THIS COMPLETED THE FINAL ACTION TO RELEASE TH EOI SYNOPSIS TO THE LICENSEE & ALGR. THE SUBJECT OF THE ENF ACTION HAD TO BE PROVIDED 45 DAYS TO RESPONSE TO OUR LETTER AND TIME TO REVIEW HIS RESPONSE.						
	6	DEMIRANDA	9/22/97	9/22/97	9/22/97	0
Awaiting OE Memo EA 97-451 HAS BEEN ASSIGNED TO THIS CASE FOR TRACKING PURPOSES						
	4	MCNULTY	12/21/95	5/30/97	8/22/97	610
OI Investigation OI INVESTIGATION PENDING. DURING THE INVESTIGATION INTO THIS MATTER, OI LEARNED/SUSPECTED THAT [REDACTED] AMS SHOWS THE SOURCE AS [REDACTED] DISCUSSED WITH BAKER WHO ADVISED THAT THIS SHOULD BE NOTED IN THE AMS. CONSEQUENTLY, THERE IS NO ACKNOWLEDGMENT OR PERIODIC STATUS LETTERS TO THE ALLEGER.						
	9	DEMIRANDA	12/21/95	1/20/96	12/21/96	366
Acknowledgement Letter NOTE: DURING THE INVESTIGATION INTO THIS MATTER, OI LEARNED/SUSPECTED THAT [REDACTED] AMS SHOWS THE SOURCE AS [REDACTED] DISCUSSED WITH BAKER WHO ADVISED THAT THIS SHOULD BE NOTED IN THE AMS AND [REDACTED] CONSEQUENTLY, THERE IS NO ACKNOWLEDGMENT OR PERIODIC STATUS LETTERS TO THE ALLEGER.						

EX 7D

[Handwritten initials]

EX 7D

EX 7D

Information in this record was deleted in accordance with the Freedom of Information Act, exemptions 7D
 FOIA- 98-162

Ex 7d except as noted

9/23

Total Days Open 828

CLOSED CASE CHRONOLOGY

Recd/Entered 12/21/95 2/29/96

RII-1995-A-0200

Saturday, March 28, 1998

Date Closed 3/28/98

2-95-034

<u>CONCERN NO.</u>	<u>ACTION NO.</u>	<u>PERSON ASSIGNED</u>	<u>DATE ASSIGNED</u>	<u>DATE DUE</u>	<u>DATE COMPLETE</u>	<u>DAYS TO COMPLETE</u>
1	3	CASTO	3/14/96	3/14/96	3/14/96	0
<p>ARB Meeting DRS INSPECT THE QUALITY OF LICENSEE'S 10 CFR 50.59 SAFETY EVAL ARB MEETING. ACTIONS: 1. OI COORDINATE WITH OGC TO DETERMINE UATIONS.</p>						
	2	IGNATONIS	12/21/95	12/21/95	12/21/95	0
<p>Initial ARB Meeting</p>						
2	1	CASTO	3/14/96	7/30/96	7/26/96	134
<p>Inspection IR: 96-12</p>						

INDEX OF CONCERNS

Saturday, March 28, 1998

RII-1995-A-0200

RII-1995-A-0200

ST LUCIE 1 *Ex 7c*

CONCERN:

1

Operations

Power Reactor

DESCRIPTION:

FALSIFICATION OF INFORMATION PROVIDED TO THE NRC REGARDING [REDACTED] PROVIDED TO SUPPORT DENIAL OF POTENTIAL VIOLATION DURING EXIT INTERVIEW [REDACTED]

SUBSTANTIATED

Y

CLOSURE:

The U.S. Nuclear Regulatory Commission, Office of Investigations, Region II, initiated this investigation on December 29, 1995, after a [REDACTED] alleged a Florida Power and light (FPL) St. Lucie Nuclear Plant engineer provided backdated or falsified information to the NRC. As the investigation developed, the focus shifted to whether an FPL engineer [REDACTED] from the NRC.

Based on the evidence developed during the investigation, OI concludes an FPL engineer [REDACTED]

7c
stet
7c
7c

Ex 7c except as noted

B/34

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Act, exemptions b7c
b7d
b7e
FOIA-98-162

EXHIBIT 2

0/35

EXHIBIT 2



FPL

ST. LUCIE PLANT

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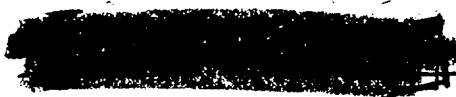


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EXHIBIT 2

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Dist. News

EXHIBIT 9

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B/36

TRANSCRIBED TAPE INTERVIEW
OF
[REDACTED]

AGENT TATE: For the record the time is now 1:28 p.m., on [REDACTED]. This is an interview with [REDACTED] regarding his knowledge of the events and circumstances surrounding the delivery of St. Lucie's [REDACTED] to the NRC. The interview is being conducted at the St. Lucie Nuclear Plant. Present at the interview are [REDACTED] and myself, Investigator Craig Tate. This interview is being taped and [REDACTED] you are aware that I am taping this and you have no objection - is that correct? 7C

[REDACTED] That's correct.

AGENT TATE: Thank you.

AGENT TATE: Would you please stand and raise your right hand. I'd like to swear you to the truthfulness of your testimony. Do you solemnly swear that the information that you are about to provide is the truth, the whole truth, and nothing but the truth.

[REDACTED] I do. 7C

AGENT TATE: Thank you. Please be seated. Let the record reflect that just prior to the beginning of this interview I identified myself to [REDACTED] as Craig Tate, an investigator with the Nuclear Regulatory Commission, Office of Investigations, and [REDACTED] has identified himself to me by providing his St. Lucie Nuclear Plant ID badge bearing a photo likeness of him.

AGENT TATE: [REDACTED] for the record would you please state your full name and your current employer. 7C

[REDACTED] [REDACTED] I am employed by Florida Power and Light Company.

AGENT TATE: And how long have you worked for FP&L?

[REDACTED] Since [REDACTED] 7C

AGENT TATE: The matter that I'm interested in today pertains to an inspection that an NRC inspector by the name of [REDACTED] was conducting in [REDACTED] about the middle of [REDACTED]. He was looking at 50.59 issues and it's my understanding that during the conduct of that inspection he had requested some [REDACTED] and I believe he made the request to you, and you I think ultimately or the plant ultimately provided those [REDACTED] to him. It's my understanding though 7C

that initially when he requested them he told me the [redacted] of the [redacted] were not available. Is that correct? 7C

[redacted] I believe so - yeah.

AGENT TATE: Could you...

[redacted] That's -- I'm sorry, go ahead.

AGENT TATE: No, you go ahead. 7C

[redacted] Until just recently the recordkeeping for our [redacted] [redacted] was not electronically maintained and there wasn't an electronic format computer file of some sort and so it was difficult to find -- uh -- to locate and find [redacted] if I may, [redacted] for selected safety evaluations which is what I believe was the subject here. So basically, you had to manually search the files for a certain safety evaluation to find the [redacted]. And as I recall, [redacted] had requested copies of [redacted] for a certain evaluation and those were found and later I think I faxed them to him in Atlanta, as far as I recall. So it took a manual search to find the right [redacted] associated with the evaluation. [humming sound] 7C

AGENT TATE: Is that noise significant?

[redacted] I don't know if that's a fire alarm or not? I think that it's too quiet [inaudible]

AGENT TATE: Just open the door. [door is opened] Is that significant - whatever that noise was? 7C

[redacted] I guess not.

AGENT TATE: Okay - I'm sorry. So you're saying they were not initially available.

[redacted] Right.

AGENT TATE: Or they could be found. 7C

[redacted] It took an extensive search to find. He would give me an evaluation number and then I would have to go through the [redacted] and try to find where that was reviewed by the [redacted]. So it's a very very slow and tedious process to find a specific set of [redacted]. I forget at what point during that -- he was here for a week or two weeks, I forget which -- at what point during that, if it was late in his visit or not, and my guess is that because we couldn't provide it to him before he left, this was something that came up probably within the last day or two. I may even have notes to that effect in my own records upstairs.

this and because of the timing involved, we weren't able to get it to him prior to his exit. Again, I can check my notes to see if I have anything on that. I believe I still have a file from his audit and the evaluations we gave him. I think maybe even my own notes.

AGENT TATE: Should we take a break? Would it help you if you picked up your notes?

([REDACTED]) Yeah. It would be worthwhile I think for me to go look and see if I could find that. Give me 10 minutes or so to run upstairs and see. 7C

AGENT TATE: The time is now 1:36 p.m. Let's take a break and you go look for your notes.

([REDACTED]) Okay--sure.

AGENT TATE: The time is now 1:45 p.m., and we're back on the record. I'll remind you that your testimony is under oath.

([REDACTED]) Okay. The audit, looking at my own personal notes here, the audit apparently had started on Monday [REDACTED] was the entrance and exited on Friday. [REDACTED] And according to my notes, I had faxed information the following Monday, [REDACTED] to [REDACTED] and I think we had traded phone messages or I had left a message because he was out of the office. And I have a note that Wednesday [REDACTED] I had a conversation with [REDACTED] and that's when he informed me that the potential violation was dropped. [Pause] I was trying to see -- these are my own personal notes. I keep a day runner and typically when I interface with inspectors many times I've been what they call a [REDACTED] engineer on an audit where I'm the point of contact for an inspector and I keep track of things that've been requested and things that I've provided and any type of debriefing information that the inspector may have provided. And what I don't do here is apparently a real good job of putting dates on all this. This spans a couple week period and I don't see too many dates on here unfortunately to help out. I believe, let's see this is from the exit [pause] I believe one of the last notes I have on here is looking for the [REDACTED] for a particular evaluation. So, it was at the tail end but I can't pinpoint a date on this. 7C

AGENT TATE: Do you recall having the conversation with [REDACTED] about the [REDACTED] like on about the [REDACTED] at the tail end? 7C

([REDACTED]) We had a conversation because he had asked if -- he had looked again at specifically this evaluation here. [REDACTED] on [REDACTED] Now this was an evaluation that was what we call an operability type of evaluation. It was not a 10 CFR 50.59 type evaluation. This particular evaluation was 7C

not required to go to the [redacted] for review and approval per our procedures. [redacted] as I recall, his concern was that the issue of [redacted] performance as I think a generic issue, be reviewed by the [redacted] and, in fact, he didn't look at this until Thursday the [redacted]. This is his schedule actually that he had given to me -- [redacted] schedule. So it was, in fact, one of the very last days of the audit then.

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AGENT TATE: Let me see if we can tell by that -- the [redacted] that I'm interested in specifically are date [redacted]

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([redacted]) Probably what I have in this pile here. Now see that was for a different evaluation. This is what was pointed out to [redacted] that the subject of the [redacted] performance issue was addressed in another evaluation, a more global evaluation, and I think that number was [redacted] which I -- that's the number I had written down in my notes here and that's the one I needed to find the [redacted] for and show him that yes indeed that that subject was reviewed by [redacted]

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AGENT TATE: So when did you provide this one to him -- the [redacted] of [redacted]

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([redacted]) When did I provide - when did I fax these to him?

AGENT TATE: Here's my understanding or I should say here is my concern. We have an indication that these [redacted] and perhaps a number of other [redacted] were, in fact, [redacted] at the time that [redacted] requested them and that the delivery of these -- these [redacted] were delayed. Do you have any knowledge of that?

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([redacted]) That they were not [redacted] My recollection was that I had to try to find them and it was a matter of trying to find them.

AGENT TATE: But we know they were all kept in one binder.

([redacted]) Well actually there is a series -- yeah a series of binders. Now, but see I didn't know the date of [redacted] so I didn't know where to look. I just knew an evaluation number, I believe the [redacted] number, that I had to find.

AGENT TATE: When you looked...

([redacted]) And, in fact, and it was harder because, it's starting to come back to me as I'm looking at this, it was really nested within an LER. There's an LER here that covered [redacted] and in part of that LER -- trying to remember now -- that an evaluation was looked at as part of the LER review. I could say this was a very -- very broad look at [redacted] in the whole power plant -- all safety-related [redacted]. His concern was that the [redacted] had not been given the information on the [redacted]. They had not reviewed [redacted] information when, in fact,

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they had looked at the LER and there's an evaluation that we did -- the [redacted] evaluation associated with that.

AGENT TATE: Do you attend these [redacted]

[redacted] Not as a regular. For a while I was an alternate [redacted] I've attended to represent evaluations that I've prepared.

AGENT TATE: I think an initial question in my mind was whether or not the [redacted] actually met and discussed these issues. I'm comfortable, I think, at this point that they, in fact, did discuss these issues.

[redacted] Oh, okay.

AGENT TATE: Alright, I'm -- but I think past that in terms of the rest of my inquiry here -- the NRC is concerned that perhaps this and perhaps some other [redacted] were [redacted] and that, in fact, when [redacted] asked for these [redacted], that, excuse me, they were not immediately provided to him -- not because somebody couldn't find them but because they were [redacted] and I guess that's what I'm asking you. Do you when you...

[redacted] I have no knowledge of that. I just reiterate what I've said already.

AGENT TATE: Were you the person who found these notes?

[redacted] My recollection was yeah, that ultimately -- yes.

AGENT TATE: And when you pulled this [redacted], did you pull it out of the customary ordinary file where the rest of them were kept?

[redacted] I forget if it was in -- see what they process with these, they would get handwritten on the date of [redacted] then they would be set aside for review [redacted] by the plant general manager, and then once they're [redacted] they would be put in the book. So there's a couple of different places and to tell you specifically where I got these, I can't recall because I've gone so many times in there to find things and I've looked in all those places. I couldn't remember one set of [redacted] from another.

AGENT TATE: When you go to those places and you look at the [redacted] have you ever found [redacted] that were [redacted]

[redacted] I've looked in the stack of [redacted] that aren't [redacted] that are pending review [redacted] by the plant general manager. Yes, that's a true statement.

AGENT TATE: Does that happen often?

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([REDACTED])

I believe it was the practice that the notes, like I say, the notes were handwritten out during the [REDACTED], then they would get subsequently typed up by the secretary, and then delivered to the plant general manager [REDACTED].

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AGENT TATE: Do you know what the time frame is before they get [REDACTED]

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([REDACTED])

I really, I really have no idea.

AGENT TATE: Do you recall when you got these [REDACTED] specifically for [REDACTED] were these [REDACTED] when [REDACTED] pulled them from the file?

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([REDACTED])

I believe they -- just the way we see them here -- that they were [REDACTED]. I don't remember saying, you know, these aren't [REDACTED]. I don't have -- I don't recall anything special about them -- that I had to do anything different.

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AGENT TATE: Prior to our interview today, have you discussed the [REDACTED] [REDACTED] with your supervisor or any of your co-workers?

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([REDACTED])

No.

AGENT TATE: Is there a way to tell the date these [REDACTED]

([REDACTED])

I don't believe so.

AGENT TATE: The date printed on the top of [REDACTED] does that reflect the [REDACTED] or does that reflect the...

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([REDACTED])

That would definitely be the [REDACTED] date. It does appear as though there is a [REDACTED] date on these. I don't know what the pract. -- they do the [REDACTED] differently now. They actually have a secretary in the meeting and they do it on an Excel -- they keep track of all the items on an Excel sheet and then all they do is put on a cover letter. My guess is that might have a date on it. I couldn't tell you. You'd have to speak to -- I think it's information services now that is in charge of providing [REDACTED] support.

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AGENT TATE: When did they change that process?

([REDACTED])

I believe it was not too long prior to the spring 1996 refueling outage.

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AGENT TATE: Do you know why they changed the procedure?

([REDACTED])

No, I don't. I was just thankful that they started electronic format so I could search for documents much easier than a manual search.

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AGENT TATE:

If I understand your testimony then, you recall telling [redacted] that these [redacted] were not available because you couldn't immediately find them. Is that correct?

([redacted])

Right, right. It was like the last day. He looked at this evaluation Thursday morning sometime and we must have had discussion, I would imagine, later that afternoon after he had interviews throughout the day and we had to find the other documents - the [redacted] evaluation. I believe we gave him a copy of that. We may or may not have given him a copy at that time of this LER and as we had discussion on it. Then he had requested, at some point, a copy of [redacted] demonstrating review of that and then he of course exited Friday -- I think I wrote the time down on here. No I don't have the time -- sometime on Friday. Typically the exits are in the morning - 9:00, 10:00, somewhere around there, so there wasn't much time at all to -- to find the [redacted] between when he had requested it and when he had exited.

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AGENT TATE:

Do you state again under oath that when you did locate these [redacted] of [redacted] that to the best of your knowledge they in fact were [redacted]

([redacted])

Yes, yes.

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AGENT TATE:

Do you recall whether you pulled these [redacted] from the file or did someone else pull them and give them to you for delivery to [redacted]

([redacted])

I can't say for certain. I don't know. I remember doing searching through the [redacted] myself. I don't recall if I specifically handed him these [redacted] or not. In fact, because he had requested [redacted] of other evaluations too so I know I found different sets of [redacted]. I don't know if I specifically pulled those or if I requested those and someone found them and gave them to me. I don't recall.

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AGENT TATE:

Has anyone told you that these [redacted] of [redacted] were [redacted] and that they needed to be [redacted] before they were delivered to the NRC?

([redacted])

No. That doesn't sound familiar at all.

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AGENT TATE:

That's something you would remember?

([redacted])

I would.

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AGENT TATE:

If it happened?

([redacted])

I would think so.

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AGENT TATE: Either related to this 50.59 inspection or any other, are you aware of any instances where any FPL employees or contractors had intentionally withheld, delayed, or provided incomplete or inaccurate information to the NRC in an attempt to mislead the NRC or to minimize a potential violation?

([REDACTED])

No. Not at all.

AGENT TATE: I don't have any further questions. Is there anything that I haven't asked you that you think might be important for me to know?

([REDACTED])

I don't think so. I think we've discussed everything to the best of my recollection. I don't think I really could add anything more one way or another.

AGENT TATE: ([REDACTED]) have I or any other NRC representative threatened you in any manner or offered you any reward in return for this statement?

([REDACTED])

No.

AGENT TATE: Have you given this statement freely and voluntarily?

([REDACTED])

Yes.

AGENT TATE: Thank you very much for your cooperation. It is now 2:01 p.m., and the interview is completed.

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7C [Signature]

EXHIBIT 10

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FOIA- 98-162

B/37

TRANSCRIBED TAPE INTERVIEW
OF
[REDACTED]

AGENT TATE: For the record the time is now 12:43 p.m., on [REDACTED] 7C
[REDACTED] This is a reinterview of [REDACTED]
regarding his knowledge of the events and circumstances
surrounding the delivery of some [REDACTED]
[REDACTED] the NRC (Nuclear Regulatory Commission). The
interview is being conducted at the NRC Resident Inspector's
Office at St. Lucie Nuclear Plant in Florida. Present at the
interview are [REDACTED] and Investigator Craig Tate of the NRC.
This interview is being tape-recorded with the permission of
[REDACTED] Is that correct?

[REDACTED] That's correct.

AGENT TATE: [REDACTED] would you please stand and raise your right hand. I'd
like to swear you to the truthfulness of the information you are
about to provide. Do you solemnly swear that the information
that you are about to provide is the truth, the whole truth, and
nothing but the truth. 7C

[REDACTED] I do.

AGENT TATE: Thank you. Please be seated. We spoke briefly just before this
meeting and I indicated to you that I had some rather compelling
evidence that would indicate to me that the [REDACTED] 7C
that we were discussing in our past interview, in fact, were
[REDACTED] at the time you found them which correlated to the time
that NRC Inspector [REDACTED] had requested them. And I
believe that you said you had given some thought to your
previous testimony and refreshed your memory and you wanted to
change your testimony. Is that correct?

[REDACTED] That's correct. 7C

AGENT TATE: In whatever way you find best why don't you relate to me the
occurrences that relate to the [REDACTED] And the
[REDACTED] we're specifically talking about are Florida Power and
Light St. Lucie Plant [REDACTED] dated [REDACTED] 7C
[REDACTED] and also bearing [REDACTED] They are [REDACTED] a
Jim Scarola, who is [REDACTED] for C. L. Burton, Plant General
Manager.

[REDACTED] Okay [REDACTED] had requested copies of [REDACTED] I'll use the term
[REDACTED] for four different evaluations that he had
looked at during the course of his two-week inspection. 7C

AGENT TATE: This inspection was in the [REDACTED] time frame. Is
that correct?

[REDACTED] That's correct. Okay. Three of the evaluations --- [REDACTED] 7C
associated with three of the evaluations were located and
provided to [REDACTED] I believe on the morning of his exit. His
request, I believe was on a Thursday, a day prior to his exit

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and as I had explained in our initial interview that it takes some time to find these [redacted] because there's no electronic search. I have to manually search the record and try to find the subject that we're looking for. The fourth evaluation, what I call evaluation [redacted] was with respect to [redacted] here at St. Lucie Plant. There were no [redacted] associated with that particular evaluation and there was a bit of a discussion about that with [redacted] and [redacted] was interested in seeing documented evidence that the [redacted] had reviewed the [redacted] issue at St. Lucie. Consequently, I was tasked with trying to find in the [redacted] in the record, evidence of review of the [redacted] issue but I did not know what document that was going to be. So it was much more difficult to locate because I didn't know what I was looking for other than a subject matter. And that why I didn't have a date, I didn't have a date estimate or anything. I had to just manually look through the file. As a result of that, I was not able to locate [redacted] until sometime after [redacted] had actually left the site. When I did find the [redacted] and I believe I found them on the following Monday - [redacted] had exited on Friday, the [redacted] were located in a file, or a folder if you will, containing [redacted] that had been typed up but had yet to be [redacted] by the plant general manager. So what I did was I took those particular [redacted] and went to the plant general manager, requested that he [redacted] them, which he did and at that point I then faxed them, a copy, up to [redacted] at his Atlanta number. When we had discussed this on last Thursday or Friday, my initial interview, I could not recall specifically if they were or were [redacted]. I did indicate that there was a population of [redacted] that get typed up and then they get sent to the plant manager for [redacted] so there's some amount of delay. I don't know what was typical I believe is what I had indicated. It was when I was driving home that evening, and I have about an hour drive home so I had time to kind of reflect and think about all that we had talked about, and it was at that point that I did recall that there was one of these sets of [redacted] that I did need to get [redacted]. But I couldn't remember what ones. When I came back to work the next work day, I looked through my files and I remembered that these [redacted] by Jim Scarola, the ones that needed to be [redacted]. So when I got back to work the next morning, I looked through my file and looked at all the [redacted]. I had kept copies of the [redacted] that I had given to [redacted] as well as the ones that were faxed - and the only [redacted] that were [redacted] Jim Scarola were the [redacted]. So it was at that point that I realized that those indeed were the [redacted] that you were asking about -- that they were [redacted] the time I found them. Now I want to be clear that these [redacted] were not found until after [redacted] left, of that I am certain. There was never any delay or stalling or intent to withhold any kind of information because quite frankly, [redacted] was looking for evidence of [redacted] and whether or not the [redacted] don't know how much that really bears upon his interest in the matter. But for sake of completeness, I felt it was appropriate to take

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those [REDACTED] to Mr. Scarola and have him [REDACTED] I guess that's all I really have to say.

AGENT TATE: [REDACTED] inspection I believe concluded on [REDACTED] I believe that was the Friday.

([REDACTED]) Friday.

AGENT TATE: So it would have been the following Monday that you found these [REDACTED] Is that correct - of these [REDACTED]

([REDACTED]) Yes.

AGENT TATE: When you found them [REDACTED] were you concerned about that - that they were [REDACTED]

([REDACTED]) I think that -- not familiar with the [REDACTED] process -- my first instinct was well this seems kind of odd but there was a file on [REDACTED] that had yet to be [REDACTED] and so I took that to be that that's their process and they just hadn't been [REDACTED] yet. They were not alone in being [REDACTED] There were -- I don't know how many others -- but there were some other [REDACTED]

AGENT TATE: Where there earlier [REDACTED] than [REDACTED]

([REDACTED]) There could be. I do not know. I didn't look at the dates.

AGENT TATE: Did you express a concern about them being [REDACTED] to your supervisor or any managers or co-workers?

([REDACTED]) I don't believe I expressed any kind of formal concern. I might have made an informal comment. In fact, in talking about this with my supervisor, he recalls me making some sort of comment.

AGENT TATE: Who was your supervisor?

([REDACTED]) My supervisor is Bob Winard.

AGENT TATE: Did Bob give you any guidance on how to handle this situation?

([REDACTED]) No. I don't recall any because I didn't express it as a serious concern of any. To me it's just an administrative processing. The [REDACTED] does their review and I didn't think that the plant manager's [REDACTED] -- to me it was just an administrative function. It didn't really have any bearing on the operation of the plant or anything I'd really be concerned about.

AGENT TATE: Did you personally take these [REDACTED] to Mr. Scarola for [REDACTED]

([REDACTED]) Yes I did.

AGENT TATE: When you presented them to Mr. Scarola did you talk to him about the request of NRC and did you express any concern that they were [REDACTED]

([REDACTED]) I don't believe I expressed a concern of any type. I probably mentioned that I needed to get a copy of these [REDACTED] to the NRC and that they needed to be [REDACTED]. That's probably the extent. I don't believe I was in the office very long. My recollection was I walked in and walked out within a matter of a couple minutes.

AGENT TATE: There was no great discussion over this? Mr. Scarola [REDACTED] it and...

([REDACTED]) No. There was no discussion over the subject matter or anything. He looked at the [REDACTED] them. Pretty brief encounter.

AGENT TATE: Was there any discussion over whether or not they needed to be [REDACTED]

([REDACTED]) No other than we recognized that they needed to be [REDACTED]. We did not discuss the delay or the process at all.

AGENT TATE: And again back in -- on or about [REDACTED] when [REDACTED] requested these [REDACTED] and you were unable to immediately provide them, is your statement that you did not provide them then because they were not -- you couldn't immediately find the specific [REDACTED] that pertained to the request he was making? I didn't say that very well did I?

([REDACTED]) Well his initial request as I had written down in my own personal notes were for [REDACTED] associated with four certain evaluation numbers. And I believe he made this request sometime on Thursday because this is in my minutes, this is the last thing I have in here before I have a summary of his -- we typically go through a pre-exit debriefing which would typically be Thursday afternoon. I don't have that indicated on my notes here but here is the summary. This would have Thursday afternoon. This is the last entry I have prior to that. And then I flip the page and this is probably Friday morning. These are my notes going through the [REDACTED] trying to find them and I found the first three or three of the four at which point I gave those to him. He exited I believe it was Friday morning at 9:00 a.m., so there wasn't a lot of time. I got him those three because I was able to find them relatively easily. The problem with the [REDACTED] was that particular evaluation in of itself was not reviewed by the [REDACTED] though I was confident that the [REDACTED] had reviewed the subject matter which was [REDACTED] lifting. But I did not have -- and I pointed this out to [REDACTED] -- I did not have a document number to which search the [REDACTED] therefore, I didn't have a date of issue or anything I could zero in on a date. It was much more difficult to find where the [REDACTED] had reviewed that subject matter. As a result, the [REDACTED] were not located until I believe it was the

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following Monday. It's possible I found them that Friday afternoon but I'm guessing it happened on Monday.

AGENT TATE: At any time did you mean to mislead [REDACTED] for the NRC through the delivery of these [REDACTED]

([REDACTED]) Oh - certainly not. Certainly not. Had I have found these [REDACTED] Friday morning, I simply would have had them [REDACTED] and then give them to [REDACTED] before he left Friday morning.

AGENT TATE: Did you at any time intend to provide [REDACTED] of the NRC with incomplete or inaccurate information?

([REDACTED]) No - not at all. Not at all.

AGENT TATE: Did you talk to anyone besides Bob Winard about this and other [REDACTED]

([REDACTED]) Like I said, I did not make any kind of formal complaint or express a formal concern. I may have made a comment to the secretary whose office I probably located these in. I may have made a comment to her just sort of off the cuff. I didn't think of it as particularly -- like I said anything that threatened plant operation or anything of a serious nature to me as an administrative process. My personal judgement was it shouldn't really take that long but I didn't know what the procedure calls for and how important that that really was.

AGENT TATE: Is it your statement that these specific [REDACTED] were not found by you until at least the Monday following [REDACTED] departure?

([REDACTED]) It was either Friday afternoon or Monday. I think it was Monday.

AGENT TATE: But after he departed?

([REDACTED]) It was definitely after he departed. There's no question in my mind because I would have given them to him if it was prior to his departure.

AGENT TATE: And is it your statement that no one instructed you to have these [REDACTED] to delivering them?

([REDACTED]) That was my own decision. I was not instructed by anybody. I recognized when I found them -- I believe I found them when I was knowingly searching through some file indicated as [REDACTED]. So when I found them I felt that it would be appropriate to have Mr. Scarola [REDACTED]. And again that did not in my mind impact the intent of [REDACTED] request to review evidence that the subject matter was reviewed by the [REDACTED]

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AGENT TATE: In the testimony that you provided during our last interview which differs considerably from your testimony today, was there any intent to mislead me or the NRC?

([REDACTED]) No - not at all. I'm not real good at recalling facts unless I write things down. That's why I try to keep a personal log because I have a poor memory of such things. I was like I said, thinking about the subject when I was driving home later that afternoon. The recollection came to me then and what I did was the next working day I had contacted Ed Windcam the licensing manager and I also spoke with Mitchell Ross who is an attorney for the company and I explained our interview and I explained -- hey I realized afterwards, you know and I explained all the facts to them and I said should I call Mr. Tate back? What should I do? And Mr. Ross had requested some additional information about our interview. I provided that to him. He was out of town for several days so I had not heard back from him. When you contacted me an hour or two hours ago, I located Mr. Ross and was looking for some advice and he at that point said tell Mr. Tate basically what you told me. Tell him about your recollection and so on and so forth. You brought it up first before I even had a chance but.

AGENT TATE: But your intention was...

([REDACTED]) My intention was to bring that up before we got into any kind of questioning or whatever - certainly.

AGENT TATE: I don't have any further questions for you. Is there anything that you would like to add to help the NRC in determining this issue?

([REDACTED]) I think I've told all that I know regarding the circumstances surrounding these [REDACTED]. I don't think I have anything more to offer.

AGENT TATE: Okay [REDACTED] have I or any other NRC representative threatened you in any manner or offered you any reward in return for this statement?

([REDACTED]) No.

AGENT TATE: Have you given this statement freely and voluntarily?

([REDACTED]) Yes.

AGENT TATE: I thank you for your cooperation. The time is now 1:02 p.m., and the interview is concluded.

MEMORANDUM FOR: William J. McNulty, Director
Office of Investigations
Field Office, RII

Oscar DeMiranda, Senior Allegation Coordinator
Enforcement and Investigation Coordination Staff

FROM: Kerry D. Landis, Chief
Reactor Projects Branch 3
Division of Reactor Projects

SUBJECT: ST LUCIE NUCLEAR PLANT: FALSIFICATION OF INFORMATION
PROVIDED TO THE NRC REGARDING EVALUATION OF [REDACTED]
(CASE NO. 2-95-034/RII-95-A-0200)

I have performed a review of the OI Report of Investigation of the above matter and find no new concerns. I recommend that the enclosed letter be used to inform [REDACTED] of the investigation findings.

This concludes the staff's activities regarding this matter. If you have any questions regarding this matter, please contact me.

Attachment: Recommended Letter to [REDACTED]

OFFICE	RII:ELCS	RII:OI									
SIGNATURE	<i>[Signature]</i>	<i>[Signature]</i>									
NAME	ABolandalt	WMCNulty									
DATE	3/1/98	3/1/98	3/1/98	3/1/98	3/1/98	3/1/98	3/1/98	3/1/98	3/1/98	3/1/98	3/1/98
COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

OFFICIAL RECORD COPY

DOCUMENT NAME: G:\ALLEGAT\95.034

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 7c, 7d
FOIA- 98-162

B138

Dea [redacted]

7c

This is in reference to an investigation by the NRC Office of Investigations into whether you withheld information from an NRC inspector. You were interviewed on several occasions during this investigation.

After considering the results of the investigation, we have concluded that there is evidence that you had [redacted] that was requested on [redacted] by a duly authorized inspector of the United States Nuclear Regulatory Commission and [redacted] apparently because [redacted] at the time the request was made.

7c

7c

Even if you did not have them at that time, [redacted] as evidenced by a E-mail issue by you. However, you did not take prompt action to notify the NRC. You later had the [redacted] and faxed them to the NRC on the following [redacted]. You made no attempt to inform the NRC that these [redacted] when you found them.

Your initial statements made under oath concerning your findings [redacted] were unequivocal. Later when interviewed by the NRC as well as your employer, your explanation continued to change. It appears that [redacted] on several occasions to both NRC and your employer's [redacted] concerning when you identified [redacted] when identified, and your conversations with your supervisors. We are particularly concerned that your statements made under oath [redacted]. Your communications [redacted].

5

7c

5, 7c

NRC gave serious consideration to taking individual enforcement action against you. You are on notice that 10 CFR 50.5, Rule on Deliberate Misconduct, provides for civil action against employees of licensees who knowingly provide incomplete or inaccurate information to either the NRC or a licensee. Civil action can include issuing orders to remove individuals from licensed activities. You should also be aware that submittal of false information may result in criminal prosecution under 18 USC 1001.

We expect that in the future your communications [redacted]. And if you determine that such communications have not met that standard, you will promptly notify the Commission.

5, 7c

[redacted] in the future may result in significant enforcement action against you. If you have any questions concerning your responsibilities to meet our requirements, please call.....

cc: William Briggs, esq.
as to licensee i will discuss this with the DEDE and other regions

Ex 7c

B139

Information in this record was deleted in accordance with the Freedom of Information Act, exemptions 7c, 15
FOIA- 98-162

7c [REDACTED] TIMELINE

7c [REDACTED]

7c [REDACTED] NRC INSPECTION BY [REDACTED]

7c [REDACTED] HOLDS THAT [REDACTED] IED TO NRC REGARDING THE DISCOVERY AND DELIVERY OF [REDACTED] HOLDS THAT [REDACTED]

7c [REDACTED] OI INTERVIEW [REDACTED] TESTIFIED HE FIRST FOUND [REDACTED]

7c [REDACTED] REFLECTS ON WHAT HE TOLD OI, AND GAINS A BETTER RECOLLECTION OF EVENTS. HE DISCUSSES THIS WITH LICENSING MANAGER AND CORPORATE ATTORNEY ROSS. ROSS HAS ADDITIONAL QUESTIONS FOR [REDACTED] BEFORE THEY TALK AGAIN, OI CONTACTS [REDACTED] ROSS TELLS [REDACTED] PRIOR TO OI INTERVIEW ON [REDACTED] TO TELL OI WHAT THEY HAD TALKED ABOUT EARLIER (BETTER RECOLLECTION OF EVENTS).

7c [REDACTED] SECOND OI INTERVIEW [REDACTED] RECANTS THAT HE FOUND THEM. FOUND THE [REDACTED] AFTER [REDACTED] DEPARTED.

Ex 7d [REDACTED] CONCERNEE TELLS [REDACTED] THAT [REDACTED] FINDS [REDACTED] PRIOR TO [REDACTED] LEAVING SITE [REDACTED] THAT [REDACTED] TOLD [REDACTED] WOULD FORWARD [REDACTED] AFTER HE FINDS THEM (BUT HE ALREADY HAD THE [REDACTED] AND THAT [REDACTED] DID NOT PROVIDE [REDACTED] BECAUSE THEY HAD NOT BEEN [REDACTED] TOLD [REDACTED] THAT HE THOUGHT HE FOUND THE [REDACTED] ON [REDACTED] HAD THEM [REDACTED] BY THE PLANT MANAGER, AND FAXED THEM TO NRC.

7c [REDACTED] PROVIDED TO OI
AUGUST 1997 OI REPORT COMPLETED.

Ex 7c
unless otherwise
noted

ENFORCEMENT ACTION WORKSHEET

INFORMATION REQUIRED TO BE AVAILABLE FOR ENFORCEMENT PANEL

ALLEGED WITHHOLDING OF INFORMATION FROM INSPECTOR

PREPARED BY: _____

DATE: _____

NOTE: The Branch Chief of the responsible Division is responsible for preparation of this questionnaire with supporting reference material and its distribution to attendees (with the exception of OE) prior to an Enforcement Panel. The Branch Chief shall also be responsible for providing the meeting location and telephone bridge number if the panel is conducted other than at the standard time (i.e., on Wednesday's at 2:00 p.m.) to attendees via e-mail. Panel attendees include ENF.GRP, CFE, OEMAIL, JXL, appropriate RII DRP and DRS, appropriate NRR and NMSS, and RII OI if needed]. A Notice of Violation (without "boilerplate") which includes the recommended severity level for the violation is required. Copies of applicable Technical Specifications or license conditions cited in the Notice or other reference material needed to evaluate the proposed enforcement action are required to be enclosed.

This Notice has been reviewed by the Branch Chief or Division Director and each violation includes the appropriate level of specificity as to how and when the requirement was violated.

Signature

Facility: St. Lucie
Unit(s): Units 1 and 2
Docket Nos: 50-335/50-389
License Nos: DPR-67/NPF-16
Inspection Report No: NRC/IR 95-22 and OI Case No. 2-95-034
Inspection Dates: [REDACTED]
Date of Exit Interview: [REDACTED]
Lead Inspector: [REDACTED]
SES Sponser: C. Casto

7C

- 1. Brief Summary of Inspection Findings:
[Always include a short statement of the regulatory concern/violation. Reference and attach draft NOV. If you use a document in the NOV, an excerpt with the material used must be included in the reference material. Then, either summarize the inspection findings in this section or reference and attach sections of the inspection report.]

7D

7C

On [REDACTED] (NRC Inspector) that St. Lucie [REDACTED] were actually [REDACTED] The [REDACTED] that [REDACTED] [REDACTED] were needed to support a denial of a potential violation.

B/41

OI determined based on a preponderance of evidence [REDACTED] Ex 5. 2

2. (a) Analysis of Root Causes:

Engineer withheld information from inspector until [REDACTED] by [REDACTED] 7C
management.

(b) Safety Significance (actual and potential):

7C Minor safety significance. The inspection was determining if a [REDACTED] safety/engineering evaluation [REDACTED] The (FRG) had reviewed the safety/engineering evaluation, however the [REDACTED] had not been [REDACTED]. The review meet the requirements of Tech Spec. Section 6.5.1X and the SRI determined that the existing procedures did not require a time requirement for [REDACTED].

(c) Risk Significance (actual and potential):

None

(d) Regulatory Significance:

Partial withholding of requested information from an NRC Inspector. Engineer failed to provide a complete set of [REDACTED] when he allegedly had them in his possession. 7C

10 CFR 50.9(a) states, in part, that information provided to the Commission by a licensee shall be complete in all material respects.

10 CFR 50.70(a) States: Each Licensee shall permit inspection, by duly authorized representatives of the commission, of his records

3. Basis for Severity Level (Safety Significance): [Include example from the supplements, aggregation, repetitiveness, willfulness, etc.]

7C The individual was not a manager. The information allegedly withheld, i.e., that the [REDACTED] was not material.

Supplement VII-- Miscellaneous Matters

Note: Supplement C.1 is not applicable because the information would not likely have resulted in a reconsideration of a regulatory position or substantial further inquiry. It was determined that the failure to (date the [REDACTED]) was not a violation as time frames for (dating the [REDACTED]) were not specified.

Supplement D.1 - Incomplete information of more than minor significance that is provided to the NRC but not amounting to a Severity Level I, II, III violation. If the violation is willful, it could be escalated to SL III.

4. Identify All Previous Escalated Actions Within 2 Years or 2 Inspections?

[by EA#, Supplement, and Identification date.]

- Inoperable Unit 1 PORVs - EA 95-180
- Overdilution Event - EA 96-040
- Miswired Nuclear Instrumentation - 96-457
- Emergency Plan Weaknesses - EA 96-464
- Access Control Deficiencies - EA 96-458
- EDG Fuel Oil Line Unreviewed Safety Question - 96-236
- Containment Sump Fabrication Errors EA 97-329

Repeat Parts 5, 6 and 7 for each violation:

Violation No. _____

5. Identification Credit? [Enter Yes or No]:

Consider following and discuss if applicable below:

Licensee-identified	Revealed through event	NRC-identified
Mixed identification	Missed opportunities	

7D Enter date Licensee was aware of issues requiring corrective action: The

licensee's investigation, through the Speakout program, did not conclude wrongdoing. The licensee has not been informed of OI finding.

Explain application of identified credit, who and how identified and consideration of missed opportunities: Possible licensee credit since the issue was identified through the Speakout program, but licensee investigation may have been inadequate.

6. Corrective Action Credit? [Enter Yes or No]:

Brief summary of corrective actions:

Investigation through Speakout program. No other information available.

Explain application of corrective action credit: More information needed.

7. Candidate For Discretion? [See attached list] [Enter Yes or No]:

Explain basis for discretion consideration:

8. Is A Predecisional Enforcement Conference Necessary?

[Enter Yes or No]: Licensee PEC depends on licensee action when violation identified. Individual PEC depends on panel decision as to whether sufficient information is available to support violation.

Why:

If yes, should OE or OGC attend? [Enter Yes or No]:
Should conference be closed? [Enter Yes or No]:

9. **Non-Routine Issues/Additional Information:**

Is this issue "risk significant?" [Responsible Branch Chief should consult with Senior Reactor Analyst on this matter.]

10. **This Action is Consistent With the Following Action (or Enforcement Guidance) Previously Issued:** [Include appropriate supplement or an action which is similar.]

Basis for Inconsistency With Previously Issued Actions (Guidance)

11. **Regulatory Message:**

The withholding of requested information is considered significant.

12. **Recommended Enforcement Action:**

Recommend a Severity Level IV violation to the licensee, because the outcome of the inspection was not effected. The licensee investigated the allegation and depending on the thoroughness of the review, the violation may not warrant escalation based on willfulness.

10 CFR 50.70(a) States, Each Licensee shall permit inspection, by duly authorized representative of the Commission, of his records...

7C
Contrary to the above, on [redacted] a licensee engineer failed to permit an inspection of St. Lucie Nuclear Plant [redacted]

until they were [redacted]

5
[redacted] who withheld the information.

13. **Should This Action Be Sent to OE For Full Review?** [Yes or No]

If yes, why: [NRR technical review required?, Unique Issue?, Controversial?, etc.]

14. **Exempt from Timeliness:** [Yes or No]

Basis for Exemption: [Exemptions generally apply to OI or DOL cases]

15. Lessons Learned from this inspection or review of proposed enforcement action:

(a) Is generic communication (IN, GL, etc.) needed for this issue?

(b) Is inspection or enforcement guidance needed?

(c) Is there a need for NRR or NMSS programmatic guidance or interpretation of requirements?

(d) Are there any other lessons learned?

Enforcement Coordinator:

DATE:

ISSUES TO CONSIDER FOR DISCRETION

Problems categorized at Severity Level I or II.

Case involves overexposure or release of radiological material in excess of NRC requirements.

Case involves particularly poor licensee performance.

Case (may) involve willfulness. Information should be included to address whether or not the region has had discussions with OI regarding the case, whether or not the matter has been formally referred to OI, and whether or not OI intends to initiate an investigation. A description, as applicable, of the facts and circumstances that address the aspects of negligence, careless disregard, willfulness, and/or management involvement should also be included.

Current violation is directly repetitive of an earlier violation.

Excessive duration of a problem resulted in a substantial increase in risk.

Licensee made a conscious decision to be in noncompliance in order to obtain an economic benefit.

Cases involves the loss of a source. (Note whether the licensee self-identified and reported the loss to the NRC.)

Licensee's sustained performance has been particularly good.

Discretion should be exercised by escalating or mitigating to ensure that the proposed civil penalty reflects the NRC's concern regarding the violation at issue and that it conveys the appropriate message to the licensee. Explain.

REFERENCE DOCUMENT CHECKLIST

EA:
Licensee:
Facility:

- ENCLOSURES -

- NRC Inspection Report or other documentation of the facts of the case
- Licensee report or other incident/event report
- Applicable license conditions
- Applicable licensee procedures or extracts from license application
- Predecisional Enforcement Conference Summary
- Enforcement History (related actions, CALs, or orders)
- Other miscellaneous documents
- A. OI Case 2-95-034 (Provided earlier) _____
- B. _____
- C. _____
- D. _____
- [Indicate if documents were previously sent.]

PROPOSED ENFORCEMENT ACTION NOT FOR PUBLIC DISCLOSURE
WITHOUT THE APPROVAL OF THE DIRECTOR, OE

ENFORCEMENT ACTION WORKSHEET

INFORMATION REQUIRED TO BE AVAILABLE FOR ENFORCEMENT PANEL

ALLEGED WITHHOLDING OF INFORMATION FROM INSPECTOR

PREPARED BY: _____

DATE: _____

NOTE: The Branch Chief of the responsible Division is responsible for preparation of this questionnaire with supporting reference material and its distribution to attendees (with the exception of OE) prior to an Enforcement Panel. The Branch Chief shall also be responsible for providing the meeting location and telephone bridge number if the panel is conducted other than at the standard time (i.e., on Wednesday's at 2:00 p.m.) to attendees via e-mail. Panel attendees include ENF.GRP, CFE, OEMAIL, JXL, appropriate RII DRP and DRS, appropriate NRR and NMSS, and RII OI if needed]. A Notice of Violation (without "boilerplate") which includes the recommended severity level for the violation is required. Copies of applicable Technical Specifications or license conditions cited in the Notice or other reference material needed to evaluate the proposed enforcement action are required to be enclosed.

This Notice has been reviewed by the Branch Chief or Division Director and each violation includes the appropriate level of specificity as to how and when the requirement was violated.

Signature

Facility: St. Lucie
Unit(s): Units 1 and 2
Docket Nos: 50-335/50-389
License Nos: DPR-67/NPF-16
Inspection Report No: NRC/IR 95-22 and OI Case No. 2-95-034
Inspection Dates: [REDACTED]
Date of Exit Interview: [REDACTED]
Lead Inspector: [REDACTED]
SES Sponser: C. Casto

- 1. Brief Summary of Inspection Findings:
[Always include a short statement of the regulatory concern/violation. Reference and attach draft NOV. If you use a document in the NOV, an excerpt with the material used must be included in the reference material. Then, either summarize the inspection findings in this section or reference and attach sections of the inspection report.]

7C
On [REDACTED] (Inspector) that St. Lucie [REDACTED] were actually [REDACTED] and that an Engineer had [REDACTED] but informed [REDACTED] The [REDACTED] were needed to support a denial of a potential violation.

OI determined based on a preponderance of evidence that the Engineer [REDACTED]

Information in this record was deleted in accordance with the Freedom of Information Act, exemptions 5, 7C, 7D
FOIA- 98-162

PREDETERMINED ENFORCEMENT INFORMATION - NOT FOR PUBLIC RELEASE W/O APPROVAL OF DIRECTOR, OE

EXS
Eng's of the case
noted
B142

2. (a) Analysis of Root Causes:

Engineer withheld information from inspector until [redacted] by management.

(b) Safety Significance (actual and potential):

Minor safety significance. The inspection was determining if a safety/engineering evaluation [redacted]. The ERG had reviewed the safety/engineering evaluation, however the [redacted] had not been [redacted]. The review meet the requirements of Tech Spec Section 6.5.14 and the SRI determined that the existing procedures did not require a time requirement for [redacted].

(c) Risk Significance (actual and potential):

None

(d) Regulatory Significance:

[redacted] from an NRC Inspector.

10 CFR 50.7(a) States: Each Licensee shall permit inspection, by duly authorized representatives of the commission, of his records

3. Basis for Severity Level (Safety Significance): [Include example from the supplements, aggregation, repetitiveness, willfulness, etc.]

Supplement VII-- Miscellaneous Matters

C.4. An action by first-line supervision in violation for 10 CFR 50.7 or similar regulations against an employee.

4. Identify All Previous Escalated Actions Within 2 Years or 2 Inspections? [by EA#, Supplement, and Identification date.]

- Inoperable Unit 1 PORVs - EA 95-180
- Overdilution Event - EA 96-040
- Miswired Nuclear Instrumentation - 96-457
- Emergency Plan Weaknesses - EA 96-464
- Access Control Deficiencies - EA 96-458
- EDG Fuel Oil Line Unreviewed Safety Question - 96-236
- Containment Sump Fabrication Errors EA 97-329

Repeat Parts 5, 6 and 7 for each violation:
Violation No. _____

5. Identification Credit? [Enter Yes or No]:

Consider following and discuss if applicable below:
 Licensee-identified Revealed through event NRC-identified
 Mixed identification Missed opportunities

Enter date Licensee was aware of issues requiring corrective action:

Explain application of identified credit, who and how identified and consideration of missed opportunities:

6. Corrective Action Credit? [Enter Yes or No]:

Brief summary of corrective actions:

Explain application of corrective action credit:

7. Candidate For Discretion? [See attached list] [Enter Yes or No]:

Explain basis for discretion consideration:

8. Is A Predecisional Enforcement Conference Necessary?
[Enter Yes or No]:

Why: No, minor issue had no effect on inspection out-come.

If yes, should OE or OGC attend? [Enter Yes or No]:

Should conference be closed? [Enter Yes or No]:

9. Non-Routine Issues/Additional Information:

Is this issue "risk significant?" [Responsible Branch Chief should consult with Senior Reactor Analyst on this matter.]

10. This Action is Consistent With the Following Action (or Enforcement Guidance) Previously Issued: [Include appropriate supplement or an action which is similar.]

Basis for Inconsistency With Previously Issued Actions (Guidance)

11. Regulatory Message:

6 The [redacted] is considered significant.

12. Recommended Enforcement Action:

Recommend a Severity Level IV violation to the licensee, because the outcome of the inspection was not effected.

10 CFR 50.7(a) States, Each Licensee shall permit inspection, by duly authorized representative of the Commission, of his records...

7C Contrary to the Above [redacted] a licensee engineer failed to permit an inspection of St. Lucie Nuclear Plant [redacted] until they were [redacted]

5 [redacted] who with held the information. X

13. Should This Action Be Sent to OE For Full Review? [Yes or No]

If yes, why: [NRR technical review required?, Unique Issue?, Controversial?, etc.]

14. Exempt from Timeliness: [Yes or No]

Basis for Exemption: [Exemptions generally apply to OI or DOL cases]

15. Lessons Learned from this inspection or review of proposed enforcement action:

(a) Is generic communication (IN, GL, etc.) needed for this issue?

(b) Is inspection or enforcement guidance needed?

(c) Is there a need for NRR or NMSS programmatic guidance or interpretation of requirements?

(d) Are there any other lessons learned?

Enforcement Coordinator:

DATE:

ISSUES TO CONSIDER FOR DISCRETION

- Problems categorized at Severity Level I or II.
- Case involves overexposure or release of radiological material in excess of NRC requirements.
- Case involves particularly poor licensee performance.
- Case (may) involve willfulness. Information should be included to address whether or not the region has had discussions with OI regarding the case, whether or not the matter has been formally referred to OI, and whether or not OI intends to initiate an investigation. A description, as applicable, of the facts and circumstances that address the aspects of negligence, careless disregard, willfulness, and/or management involvement should also be included.
- Current violation is directly repetitive of an earlier violation.
- Excessive duration of a problem resulted in a substantial increase in risk.
- Licensee made a conscious decision to be in noncompliance in order to obtain an economic benefit.
- Cases involves the loss of a source. (Note whether the licensee self-identified and reported the loss to the NRC.)
- Licensee's sustained performance has been particularly good.
- Discretion should be exercised by escalating or mitigating to ensure that the proposed civil penalty reflects the NRC's concern regarding the violation at issue and that it conveys the appropriate message to the licensee. Explain.

REFERENCE DOCUMENT CHECKLIST

EA:
Licensee:
Facility:

- ENCLOSURES -

- NRC Inspection Report or other documentation of the facts of the case
- Licensee report or other incident/event report
- Applicable license conditions
- Applicable licensee procedures or extracts from license application
- Predecisional Enforcement Conference Summary
- Enforcement History (related actions, CALs, or orders)
- Other miscellaneous documents
 - A. OI Case 2-95-034 (Provided earlier) _____
 - B. _____
 - C. _____
 - D. _____

[Indicate if documents were previously sent.]

PROPOSED ENFORCEMENT ACTION NOT FOR PUBLIC DISCLOSURE
WITHOUT THE APPROVAL OF THE DIRECTOR, OE

ENFORCEMENT ACTION WORKSHEET

INFORMATION REQUIRED TO BE AVAILABLE FOR ENFORCEMENT PANEL

ALLEGED WITHHOLDING OF INFORMATION FROM INSPECTOR

PREPARED BY: _____

DATE: _____

NOTE: The Branch Chief of the responsible Division is responsible for preparation of this questionnaire with supporting reference material and its distribution to attendees (with the exception of OE) prior to an Enforcement Panel. The Branch Chief shall also be responsible for providing the meeting location and telephone bridge number if the panel is conducted other than at the standard time (i.e., on Wednesday's at 2:00 p.m.) to attendees via e-mail. Panel attendees include ENF.GRP, CFE, OEMAIL, JXL, appropriate RII DRP and DRS, appropriate NRR and NMSS, and RII OI if needed]. A Notice of Violation (without "boilerplate") which includes the recommended severity level for the violation is required. Copies of applicable Technical Specifications or license conditions cited in the Notice or other reference material needed to evaluate the proposed enforcement action are required to be enclosed.

This Notice has been reviewed by the Branch Chief or Division Director and each violation includes the appropriate level of specificity as to how and when the requirement was violated.

Signature

Facility: St. Lucie
Unit(s): Units 1 and 2
Docket Nos: 50-335/50-389
License Nos: DPR-67/NPF-16
Inspection Report No: NRC IR 95-22 and OI Case No. 2-95-034
Inspection Dates: [REDACTED]
Date of Exit Interview: [REDACTED]
Lead Inspector: [REDACTED]
SES Sponser: C. Casto

7c

1. Brief Summary of Inspection Findings:

[Always include a short statement of the regulatory concern/violation. Reference and attach draft NOV. If you use a document in the NOV, an excerpt with the material used must be included in the reference material. Then, either summarize the inspection findings in this section or reference and attach sections of the inspection report.]

On [REDACTED] (NRC Inspector) that St. Lucie [REDACTED] were actually [REDACTED] that [REDACTED] were needed to support a denial of a potential violation.

NOV
#3
EX 7d
7c

Information in this record was deleted in accordance with the Freedom of Information Act, exemptions 5, 7C, 7D

B
2

2. (a) Analysis of Root Causes:

Engineer withheld information from inspector until [redacted] by management. 7C

(b) Safety Significance (actual and potential):

Minor safety significance. The inspection was determining if a safety/engineering evaluation [redacted]. The FRG had reviewed the safety/engineering evaluation, however, the [redacted] had not been [redacted]. The review meet the requirements of Tech Spec Section 6.5.1 and the SRI determined that the existing procedures did not require a time requirement for [redacted].

(c) Risk Significance (actual and potential):

None

(d) Regulatory Significance:

Partial withholding of requested information from an NRC Inspector. Engineer failed to provide a complete set of [redacted] when he allegedly had them in his possession. 7C

10 CFR 50.9(a) states, in part, that information provided to the Commission by a licensee shall be complete in all material respects.

10 CFR 50.70(a) States: Each Licensee shall permit inspection, by duly authorized representatives of the commission, of his records

3. Basis for Severity Level (Safety Significance): [Include example from the supplements, aggregation, repetitiveness, willfulness, etc.]

The individual was not a manager. The information allegedly withheld, i.e., that the [redacted] was not material. 7C

Supplement VII-- Miscellaneous Matters

Note: Supplement C.1 is not applicable because the information would not likely have resulted in a reconsideration of a regulatory position or substantial further inquiry. It was determined that the failure to date the [redacted] was not a violation as time frames for dating the [redacted] were not specified.

Supplement D.1 - Incomplete information of more than minor significance that is provided to the NRC but not amounting to a Severity Level I, II, III violation. If the violation is willful, it could be escalated to SL III.

ENFORCEMENT ACTION
WORKSHEET

3

4. Identify All Previous Escalated Actions Within 2 Years or 2 Inspections?
[by EA#, Supplement, and Identification date.]

- Inoperable Unit 1 PORVs - EA 95-180
- Overdilution Event - EA 96-040
- Miswired Nuclear Instrumentation - 96-457
- Emergency Plan Weaknesses - EA 96-464
- Access Control Deficiencies - EA 96-458
- EDG Fuel Oil Line Unreviewed Safety Question - 96-236
- Containment Sump Fabrication Errors EA 97-329

Repeat Parts 5, 6 and 7 for each violation:
Violation No. _____

5. Identification Credit? [Enter Yes or No]:

Consider following and discuss if applicable below:
 Licensee-identified Revealed through event NRC-identified
 Mixed identification Missed opportunities

Enter date Licensee was aware of issues requiring corrective action: The

Ep 7d

~~_____~~ the licensee's investigation through the Speakout program, did not conclude wrongdoing. The licensee has not been informed of OI finding.

Ep 7d

Explain application of identified credit, who and how identified and consideration of missed opportunities: Possible licensee credit since the issue was identified through the Speakout program, but licensee investigation may have been inadequate.

6. Corrective Action Credit? [Enter Yes or No]:

Ep 7d

Brief summary of corrective actions:
Investigation through ~~_____~~ speakout program. No other information available.

Explain application of corrective action credit: More information needed.

7. Candidate For Discretion? [See attached list] [Enter Yes or No]:

Explain basis for discretion consideration:

8. Is A Predecisional Enforcement Conference Necessary?
[Enter Yes or No]: Licensee PEC depends on licensee action when violation identified. Individual PEC depends on panel decision as to whether sufficient information is available to support violation.

Why:

If yes, should OE or OGC attend? [Enter Yes or No]:
Should conference be closed? [Enter Yes or No]:

9. Non-Routine Issues/Additional Information:

Is this issue "risk significant?" [Responsible Branch Chief should consult with Senior Reactor Analyst on this matter.]

10. This Action is Consistent With the Following Action (or Enforcement Guidance) Previously Issued: [Include appropriate supplement or an action which is similar.]

Basis for Inconsistency With Previously Issued Actions (Guidance)

11. Regulatory Message:

3,7c The [redacted] is considered significant.

12. Recommended Enforcement Action:

Recommend a Severity Level IV violation to the licensee, because the outcome of the inspection was not effected. The licensee investigated the allegation and depending on the thoroughness of the review, the violation may not warrant escalation based on willfulness.

10 CFR 50.70(a) States, Each Licensee shall permit inspection, by duly authorized representative of the Commission, of his records...

7c Contrary to the above, on [redacted] a licensee engineer failed to permit an inspection of St. Lucie Nuclear Plant [redacted] until they

were [redacted] who withheld the information.

Ex 5
←

13. Should This Action Be Sent to OE For Full Review? [Yes or No]

If yes, why: [NRR technical review required?, Unique Issue?, Controversial?, etc.]

ENFORCEMENT ACTION
WORKSHEET

5

14. Exempt from Timeliness: [Yes or No]
Basis for Exemption: [Exemptions generally apply to OI or DOL cases]
15. Lessons Learned from this inspection or review of proposed enforcement action:
- (a) Is generic communication (IN, GL, etc.) needed for this issue?
 - (b) Is inspection or enforcement guidance needed?
 - (c) Is there a need for NRR or NMSS programmatic guidance or interpretation of requirements?
 - (d) Are there any other lessons learned?

Enforcement Coordinator:
DATE:

ISSUES TO CONSIDER FOR DISCRETION

- Problems categorized at Severity Level I or II.
- Case involves overexposure or release of radiological material in excess of NRC requirements.
- Case involves particularly poor licensee performance.
- Case (may) involve willfulness. Information should be included to address whether or not the region has had discussions with OI regarding the case, whether or not the matter has been formally referred to OI, and whether or not OI intends to initiate an investigation. A description, as applicable, of the facts and circumstances that address the aspects of negligence, careless disregard, willfulness, and/or management involvement should also be included.
- Current violation is directly repetitive of an earlier violation.
- Excessive duration of a problem resulted in a substantial increase in risk.
- Licensee made a conscious decision to be in noncompliance in order to obtain an economic benefit.
- Cases involves the loss of a source. (Note whether the licensee self-identified and reported the loss to the NRC.)
- Licensee's sustained performance has been particularly good.
- Discretion should be exercised by escalating or mitigating to ensure that the proposed civil penalty reflects the NRC's concern regarding the violation at issue and that it conveys the appropriate message to the licensee. Explain.

REFERENCE DOCUMENT CHECKLIST

EA:
Licensee:
Facility:

- ENCLOSURES -

- NRC Inspection Report or other documentation of the facts of the case
- Licensee report or other incident/event report
- Applicable license conditions
- Applicable licensee procedures or extracts from license application
- Predecisional Enforcement Conference Summary
- Enforcement History (related actions, CALs, or orders)
- Other miscellaneous documents

- A. OI Case 2-95-034 (Provided earlier) _____
- B. _____
- C. _____
- D. _____

[Indicate if documents were previously sent.]

PROPOSED ENFORCEMENT ACTION NOT FOR PUBLIC DISCLOSURE
WITHOUT THE APPROVAL OF THE DIRECTOR, OE



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

September 22, 1997

MEMORANDUM TO: Luis A. Reyes, Regional Administrator,
Region II

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

Jack R. Goldberg, Deputy Assistant General
Counsel for Enforcement
Office of the General Counsel

FROM: James Lieberman, Director
Office of Enforcement

SUBJECT: OI 2-95-034; RE: ST. LUCIE, FALSIFICATION OF INFORMATION
PROVIDED TO THE NRC RELATED TO [REDACTED] EX 7C

The above referenced investigation was initiated by the Office of Investigations (OI), after a [REDACTED] alleged that a Florida Power and Light Company (FPL), St. Lucie Nuclear Plant engineer provided falsified information to the NRC and during the course of the investigation the focus shifted to whether an FPL engineer [REDACTED] EX 7D

In its report dated August 22, 1997, OI concluded, based on the preponderance of the evidence, that an FPL engineer [REDACTED] EX 5

Based on OI's conclusions, enforcement action may be appropriate and accordingly an OGC analysis of this case is requested. We understand that Region II, Office of General Counsel, and Office of Nuclear Reactor Regulation will be prepared to discuss this matter and develop an enforcement strategy at the regularly scheduled OE/Region II enforcement panel on September 23, 1997. EA 97-451 has been assigned to this case for tracking purposes.

Please contact Terry Reis of my staff at (301) 415-3281 with any comments.

cc: A. Thadani, DEDO
R. Zimmerman, NRR
G. Caputo, OI
F. Hebdon, NRR
L. Wiensn, NRR
B. Uryc, RII

NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
DIRECTOR, OFFICE OF ENFORCEMENT

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in accordance with the Freedom of Information
Act, exemptions EX 7C, 5, 7D
FOIA- 98-162

B144

Multiple Addressees

DISTRIBUTION:
JLieberman, OE
MSatorius, OE
TReis, OE
Day File
OI File

OE	D:OE
Treis	JLieberman
09/ /97	09/21/97

Doc Name: G:\OI295034.TR

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
DIRECTOR, OFFICE OF ENFORCEMENT~~

March 27, 1998

Florida Power and Light Company
ATTN: Mr. T. F. Plunkett
President - Nuclear Division
P. O. Box 14000
Juno Beach, FL 33408-0420

SUBJECT: ST. LUCIE NUCLEAR PLANT: FALSIFICATION OF INFORMATION
PROVIDED TO THE NRC REGARDING EVALUATION OF [REDACTED]
INVESTIGATIONS CASE NUMBER 2-95-034

WJ
7C

Dear Mr. Plunkett:

Enclosed for your information is the synopsis of the Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) completed report regarding alleged wrongdoing at the Florida Power and Light Company, St. Lucie Nuclear Plant.

OI has completed the investigation and the findings are provided in the attached OI Synopsis (Case 2-95-034). Notwithstanding the OI conclusion, based on the staff's evaluation of the specific circumstances of this matter, no further action with regard to this issue is planned. Should you have any questions concerning this letter, please contact us.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter and the enclosure will be placed in the Public Document Room.

Sincerely,

Original signed by Kerry D. Landis

Kerry D. Landis, Chief
Reactor Projects Branch 3
Division of Reactor Projects

Docket Nos.: 50-335, 50-389
License Nos.: DPR-67, NPF-16

Enclosure: Investigative Synopsis,
OI Case No. 2-95-034

*See previous concurrence-attached

OFFICE	RII:EICS	RII:OI							
SIGNATURE	*	<i>WJ</i>							
NAME	ABoland alt	WMcNulty							
DATE	3/ /98	3/27 /98	3/ /98	3/ /98	3/ /98	3/ /98	3/ /98	3/ /98	3/ /98
COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

OFFICIAL RECORD COPY

DOCUMENT NAME: G:\ALLEGAT\9701.LIC

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in accordance with the Freedom of Information
Act, exemptions S, 7C
FOIA- 98-162

B/K/S

Florida Power and Light Company
 ATTN: Mr. T. F. Plunkett
 President - Nuclear Division
 P. O. Box 14000
 Juno Beach, FL 33408-0420

SUBJECT: ST. LUCIE NUCLEAR PLANT: FALSIFICATION OF INFORMATION
 PROVIDED TO THE NRC REGARDING EVALUATION OF [REDACTED]
 INVESTIGATIONS CASE NUMBER 2-95-034

EX
7C

Dear Mr. Plunkett:

Enclosed for your information is the synopsis of the Nuclear Regulatory Commission (NRC) Office of Investigations (OI) completed report regarding alleged wrongdoing at the Florida Power and Light Company, St. Lucie Nuclear Plant.

OI has completed the investigation and the findings are provided in the attached OI Synopsis (Case 2-97-002). We plan no further action with regard to this matter. Should you have any questions concerning this letter, please contact us.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter and the enclosure will be placed in the Public Document Room.

Sincerely,

Kerry D. Landis, Chief
 Reactor Projects Branch 3
 Division of Reactor Projects

Docket Nos.: 50-335, 50-389
 License Nos.: DPR-67, NPF-16

Enclosure: Investigative Synopsis,
 OI Case No. 2-95-034

OFFICE	RII:RCS	RII:OI					
SIGNATURE	<i>[Signature]</i>						
NAME	ABolandalt	WMcNulty					
DATE	3/ 21 /98	3/ /98	3/ /98	3/ /98	3/ /98	3/ /98	3/ /98
COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

SYNOPSIS

The U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region II (RII), initiated this investigation on December 29, 1995, after [REDACTED] alleged a Florida Power and Light Company (FPL), St. Lucie Nuclear Plant engineer provided backdated or falsified information to the NRC. As the investigation developed, the focus shifted to whether an FPL engineer withheld from the NRC, information material to an NRC inspection.

Based upon a preponderance evidence developed during this investigation, OI concludes an FPL engineer [REDACTED]

EX5

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION II~~

April 1, 1998

CERTIFIED MAIL #Z 124 873 389
RETURN RECEIPT REQUESTED

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

SUBJECT: ~~RE~~ LUCIE NUCLEAR PLANT: FALSIFICATION OF INFORMATION PROVIDED TO
THE NRC REGARDING EVALUATION OF [REDACTED] (CASE NO. 2-95-034/ EX 7C
RII-95-A-0200)

Dear XXXXXXXXXXXXX:

This refers to conversations between you and the Nuclear Regulatory Commission (NRC) regarding alleged wrongdoing at the Florida Power and Light Company's (FPL) St. Lucie Nuclear Plant. The Office of Investigations (OI) has completed an investigation into Allegation No. RII-95-A-0200. As reported in the enclosed investigative synopsis, OI substantiated the allegation that an FPL engineer [REDACTED]

EXS

[REDACTED] However, based on the specific evidence and circumstances of the case and the overall impact of the delayed information on the NRC inspection, the staff determined that enforcement action could not be supported in this case.

If you have any questions regarding this matter, please do not hesitate to contact me at (404) 562-4878.

Sincerely,

William J. McNulty, Director
Office of Investigations
Field Office, RII

Enclosure: Investigative Synopsis,
OI Case No. 2-95-034

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Act, exemptions 7C, 5
FOIA- 98-162

B/46
[Handwritten signature]



UNITED STATES
NUCLEAR REGULATORY COMMISSION
 OFFICE OF INVESTIGATIONS FIELD OFFICE, REGION II
 ATLANTA FEDERAL CENTER
 61 FORSYTH STREET, SW, SUITE 23T85
 ATLANTA, GEORGIA 30303

August 29, 1997

MEMORANDUM TO: Luis A. Reyes, Regional Administrator
 Region II

FROM: William J. McNulty, Director *With J. Miller*
 Office of Investigations Field Office, Region II

SUBJECT: ST. LUCIE NUCLEAR PLANT: FALSIFICATION OF INFORMATION
 PROVIDED TO THE NRC REGARDING EVALUATION OF [REDACTED] **E17C**
 [REDACTED] (CASE NO. 2-95-034/R11-95-A-0200)

Attached is the Office of Investigations (OI) Report of Investigation (ROI) concerning the above matter. The facts of this case were presented to the U.S. Department of Justice (DOJ) for consideration of criminal prosecution. DOJ declined prosecution.

Since the action office has the responsibility for advising alleged of the status and disposition of allegations, they are authorized, upon receipt of the ROI, to advise the alleged that the investigation has been completed. After the NRC and/or other concerned Federal agencies have taken whatever action they deem appropriate, the action office will notify the alleged that his allegations were either substantiated, partially substantiated, or not substantiated and may, if requested, furnish the alleged with a copy of the ROI synopsis after OI approval.

This investigation has been closed by OI and the report has been forwarded to you for your information and whatever action you deem appropriate. Neither this memorandum nor the report contents may be released outside the NRC without the permission of the Director, OI. Please ensure that any internal office distribution of this report is controlled and limited only to those with a need to know and that they are aware of the sensitivity of its contents. Treat as "Official Use Only."

Attachment: Report w/exhibits

cc w/att: J. Lieberman, OE
 L. Chandler, OGC ✓

cc w/report: A. Thadani, DEDE
 S. Collins, NRR
 T. Martin, AEOD

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 in accordance with the Freedom of Information
 Act, exemptions 7C
 FOIA- 98-162

*2x5
 Inter-act*

*B/47
 [Signature]*



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION II
ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW, SUITE 23T85
ATLANTA, GEORGIA 30303

September 4, 1997

MEMORANDUM FOR: Johns P. Jaudon, Director
Division of Reactor Safety (DRS)

FROM: Bruno Uryc, Director
Enforcement and Investigations
Coordination Staff (EICS)

SUBJECT: OFFICE OF INVESTIGATIONS REPORT NO. 2-95-034 -
ST. LUCIE NUCLEAR PLANT

Attached is a copy of the Office of Investigations (OI) Report No. 2-95-034, issued on August 29, 1997, regarding alleged falsification of information and/or withholding of information from the NRC. OI concluded that a Florida Power and Light Company engineer [REDACTED]

Please review the OI report and associated exhibits to determine the appropriate enforcement action in this case. This review should also include a determination as to whether any new allegations were provided during the investigation process.

You are requested to complete your review and be prepared to present your conclusions at an enforcement panel to be scheduled by the Office of Enforcement in the near future. You will be advised of the panel date as soon as it is scheduled; however, for planning purposes it generally occurs approximately three weeks following issuance of the OI report. In preparation for this panel, an Enforcement Action Worksheet (EAW) should be prepared to address the appropriate course of action against the utility as well as the individual involved in the record falsification (The latest version of the EAW is on the LAN at s:\enforce.dir\ew-0327.97). If new allegations are identified, these issues should be documented and forwarded to A. Ignatonis or O. DeMiranda of my staff to be scheduled for review at an Allegation Review Panel.

DRS, Engineering Branch has the lead for this review.

Please treat this document as "Official Use Only" and appropriately destroy the documents when your work with them is completed. Your cooperation and assistance in achieving a timely review of the report is greatly appreciated. Exhibits to the OI Report are available from any member of my staff.

Attachment: OI Report No. 2-95-034

cc w/attachment:	cc w/o attachment:
J. Johnson, DRP	W. McNulty, OI
C. Evans, ORA	K. Landis, DRP
O. DeMiranda, EICS	C. Casto, DRS
A. Boland, EICS	
C. Christensen, DRS	

Information
ccor'anc w
of exemptions 5
date 98-162

AT
B/48

FAX TRANSMITTAL - ONE PAGE ONLY

TO: BRUNO

FROM: TERRY

EA REQUEST & ENFORCEMENT STRATEGY FORM

Dw Case ___ 1st Panel: ___ Post Board/Panel: ___ Re-Panel: ___ Post Caucus: ___ Re-Caucus: ___ Other: ___

EA 97-451

EATS Data Entry Information

Today's Date: 9/19/97 Region: II Case Type: B Small Entity No Yes
Licensee: St Lucie - individual Facility (Unit)/Location: St Lucie
Doc No: 50-335; 50-389 Last Day of Insp: 8/22/97 ID Date: ___
Date of Ref: 4/29/95 OI Rpt No: 2-95-034 OI Rpt Date: 8/22/97 Conference Closed? ___

Summary of Facts: OI concluded an FPL engineer [redacted]

Inspection Rpt No: OI-295-034 Keywords for SLIVs and RCVs: ___

ES: TR

SI: ___ Supp: ___

Details: _____

SI: ___ Supp: ___

Details: _____

SI: ___ Supp: ___

Details: _____

- 2 Risk Significant Case? Yes No
- 3 Prior Escalated Action? No Yes EA: _____ Date: _____
- 4 Lic ID? No Yes / Lic Credit No Credit Inad. Info RA Explain: _____
- 5 Corrective Action? Lic Credit No Credit Inad. Info Explain: _____
- 6 Conference Needed? No Yes Explain: _____
- 7 CP? No CP Base CP Double Base CP Other: _____
- 8 Discretion or Order Needed? No Yes Explain: _____
- 9 Willfulness involved? No Yes OI Coordinated: _____ Needs OI Coordination
- 10 Program Office Represented? No Yes 11. OGC Represented? No Yes
- 12 Action? No violation Re-panel Conference Letter Choice Letter EL IV NOV Re-Caucus Region Issues Esc. Action:
 Submit to OE for Quick Review Submit to OE for Full Package Review DEDO Review Commission Disagreement
 Other: _____

Comments: _____ 14. Approved: _____ Date: _____ Faxed: _____

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Handwritten initials and date: AVB 9/19/97