

EDO Principal Correspondence Control

FROM: DUE: 01/06/10

EDO CONTROL: G20090690
DOC DT: 12/05/09
FINAL REPLY:

Thomas Saporito
Jupiter, Florida

TO:

Bill Borchardt

FOR SIGNATURE OF :

** GRN **

CRC NO:

Leeds, NRR

DESC:

ROUTING:

2.206 - Enforcement Action Against the Progress
Energy Company, Crystal River Nuclear Plant
[EDATS: OEDO-2009-0758]

Borchardt
Virgilio
Mallett
Ash
Mamish
SBurns/JGray
SBAGGETT, OEDO
LREYES, RII

DATE: 12/08/09

ASSIGNED TO:

CONTACT:

NRR

Leeds

SPECIAL INSTRUCTIONS OR REMARKS:

TEMPLATE EDO-001

E-RIDS EDO-01

EDATS

Electronic Document and Action Tracking System

EDATS Number: OEDO-2009-0758

Source: OEDO

General Information

Assigned To: NRR

OEDO Due Date: 1/6/2010

Other Assignees:

SECY Due Date: NONE

Subject: 2.206 - Enforcement Action Against the Progress Energy Company, Crystal River Nuclear Plant

Description:

CC Routing: NONE

ADAMS Accession Numbers - Incoming: NONE

Response/Package: NONE

Other Information

Cross Reference Number: G20090690

Staff Initiated: NO

Related Task:

Recurring Item: NO

File Routing: EDATS

Agency Lesson Learned: NO

OEDO Monthly Report Item: NO

Process Information

Action Type: 2.206 Review

Priority: Medium

Signature Level: NRR

Sensitivity: None

Urgency: NO

OEDO Concurrence: NO

OCM Concurrence: NO

OCA Concurrence: NO

Special Instructions:

Document Information

Originator Name: Thomas Saporito

Date of Incoming: 12/5/2009

Originating Organization: Citizens

Document Received by OEDO Date: 12/7/2009

Addressee: Bill Borchardt

Date Response Requested by Originator: NONE

Incoming Task Received: Letter

From the Desk of Thomas Saporito

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05 DEC 2009

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

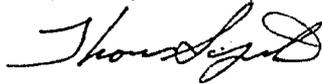
*In re: Request for Enforcement Action Under 10 C.F.R. 2.206 Against the Progress Energy Company,
Crystal River Nuclear Plant*

Dear Mr. Borchard:

Enclosed herewith, please the undersigned's petition under 10 C.F.R. 2.206 requesting that the U.S. Nuclear Regulatory Commission (NRC) take enforcement action against its licensee Progress Energy (PE or licensee), Crystal River Nuclear Plant.

For the reasons stated in the petition, the NRC should grant the petition and take the requested enforcement action against PEC to ensure for the protection of public health and safety.

Respectfully submitted,



Thomas Saporito

A copy of this document was provided to:

Hon. Barack Obama
President of the United States
The White House
1600 Pennsylvania Ave., N.W.
Washington, D.C. 20500

William D. Johnson, Chairman
President, Chief Executive Officer
Progress Energy
Post Office Box 1551
Raleigh, North Carolina 27602

**BEFORE THE U.S. NUCLEAR REGULATORY COMMISSION
OFFICE OF THE EXECUTIVE DIRECTOR**

In the matter of:

Progress Energy,

Date: 05 DEC 2009

**Crystal River Nuclear Plant,
Unit-3**

Docket Number: 050-00302

**REQUEST FOR ENFORCEMENT ACTION UNDER 10 C.F.R. 2.206 AGAINST
PROGRESS ENERGY, CRYSTAL RIVER NUCLEAR PLANT UNIT-3**

NOW COMES, Thomas Saporito, ("Saporito") (hereinafter "Petitioner") and submits a petition under 10 C.F.R. 2.206 seeking enforcement action and a confirmatory order by the U.S. Nuclear Regulatory Commission (NRC) against its licensee Progress Energy (PE or licensee) regarding a violation of NRC regulations and requirements under 10 C.F.R. Part 50 at the licensee's Crystal River Nuclear Plant Unit-3 (CRN) in the structural failure of the CRN containment building.

STANDARD OF REVIEW

A. Criteria for Reviewing Petitions Under 10 C.F.R. 2.206

The staff will review a petition under the requirements of 10 C.F.R. 2.206 if the request meets all of the following criteria:

- The petition contains a request for enforcement-related action such as issuing an order modifying, suspending, or revoking a license, issuing a notice of violation, with or without a proposed civil penalty, etc.
- The facts that constitute the basis for taking the particular action are specified. The petitioner must provide some element of support beyond the bare assertion. The supporting facts must be credible and sufficient to warrant further inquiry.
- There is no NRC proceeding available in which the petitioner is or could be a party and through which petitioner's concerns could be addressed. If there is a proceeding available, for example, if a petitioner raises an issue that he or she has raised or could raise in an ongoing licensing proceeding, the staff will inform the petitioner of the ongoing proceeding and will not treat the request under 10 C.F.R. 2.206.

B. Criteria for Rejecting Petitions Under 10 C.F.R. 2.206

- The incoming correspondence does not ask for an enforcement-related action or fails to provide sufficient facts to support the petition but simply alleges wrongdoing, violations of NRC regulations, or existence of safety concerns. The request cannot be simply a general statement of opposition to nuclear power or a general assertion without supporting facts (e.g., the quality assurance at the facility is inadequate). These assertions will be treated as routine correspondence or as allegations that will be referred for appropriate action in accordance with MD 8.8, "Management of Allegations".
- The petitioner raises issues that have already been the subject of NRC staff review and evaluation either on that facility, other similar facilities, or on a generic basis, for which a resolution has been achieved, the issues have been resolved, and the resolution is applicable to

the facility in question. This would include requests to reconsider or reopen a previous enforcement action (including a decision not to initiate an enforcement action) or a director's decision. These requests will not be treated as a 2.206 petition unless they present significant new information.

- The request is to deny a license application or amendment. This type of request should initially be addressed in the context of the relevant licensing action, not under 10 C.F.R. 2.206.
- The request addresses deficiencies within existing NRC rules. This type of request should be addressed as a petition for rulemaking.

See, Volume 8, Licensee Oversight Programs, Review Process for 10 C.F.R. Petitions, Handbook 8.11 Part III.

SPECIFIC REQUEST FOR NRC ENFORCEMENT ACTION

1. Petitioner hereby requests that the NRC take enforcement action against the licensee and issue a Confirmatory Order requiring that the licensee: (1) physically **remove the outer ten-inches of concrete** surrounding the CRN containment building from the top of the containment building to the bottom of the containment building and encompassing 360-degrees around the entire containment building; and (2) test samples of the concrete removed from the CRN containment building for composition and compare the test results to a sample of concrete from a similarly designed facility like the Florida Power and Light Company (FPL), Turkey Point Nuclear Plant (TPN); and (3) maintain the CRN in cold-shutdown mode until such time as the licensee can demonstrate full compliance with its NRC operating license for CRN within the safety margins delineated in the licensee's Final Safety Analysis Report (FSAR) and within the CRN site specific technical specifications; and (4) provide the public with an opportunity to intervene at a public hearing before the NRC Atomic Safety and Licensing Board (ASLB) to challenge any certification made by the licensee to the NRC that it has re-established full compliance with 10 C.F.R. 50 and the safety margins delineated in its FSAR and technical specifications.

BASIS AND JUSTIFICATION

1. During a maintenance activity performed under the direction and authorization of the licensee to cut an opening in the CRN containment building for access to replace steam generator units, the CRN containment building was discovered to have one or more separations between the poured concrete perimeter wall of the containment building and the horizontally installed tendons placed from top to bottom around the containment building within 10-inches of the outer-most part of the 42-inch thick concrete perimeter wall of the containment building. To date, the licensee has not been able to determine the "root-cause" of this structural failure.
2. The licensee is currently engaged in conducting Impulse Testing of the remaining CRN containment building perimeter wall to determine if additional separations exist. However, the licensee's use of Impulse Testing is not sufficient to make such a determination. Notably, Impact Echo testing is used world-wide to determine concrete cracking and failures on public bridges and the like, but even this type of testing is not sufficient to fully validate the entirety of the CRN containment building. Furthermore, even the use of destructive testing to make visual inspections of small areas of the CRN containment building is not sufficient to qualify the entirety of the containment building.
3. Removal of ten-inches of concrete from the outer-part of the 42-inch containment building wall from top to bottom and 360-degrees around would effectively expose the entirety of the

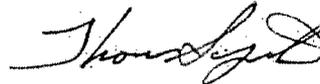
surrounding 5 ¼" tendons and allow visual inspection of the inner-side of the tendons to make certain that no separation between the tendons and the inner-part of the concrete wall exist.

4. Removal of ten-inches of concrete from the outer-part of the 42-inch containment building wall from top to bottom and 360-degrees around would ensure for the best possible adhesion of a new concrete pour to the existing inner concrete perimeter wall of the containment building.
5. The licensee's FSAR requires that the CRN containment building be comprised of a monolithic concrete perimeter wall. The only way the licensee can fully achieve compliance with its FSAR is to remove ten-inches of concrete from the outer-part of the 42-inch containment building wall from top to bottom and 360-degrees around for proper visual inspect an repair activities.

CONCLUSION

FOR ALL THE ABOVE STATED REASONS, the NRC staff should grant the 10 C.F.R. 2.206 petition submitted by the Petitioner in the interest of protecting public health and safety regarding the licensee's CRN failed containment building and the licensee's associated inspection and repair activities.

Respectively submitted,



Thomas Saporito