



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 29, 2012

Mr. Thomas Saporito
Saprodani Associates
177 US Hwy 1N, Unit 212
Tequesta, Florida 33469

Dear Mr. Saporito:

In your letter to the Executive Director for Operations (EDO) of the Nuclear Regulatory Commission (NRC), dated March 1, 2012, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.206 of the NRC's regulations, you made the following request for enforcement related action:

"Petitioner respectfully requests that the NRC: (1) take escalated enforcement action against the above-captioned licensee(s) and suspend, or revoke the NRC license(s) granted to the licensee for operation of the licensees' Palisades Nuclear Plant in the USA; (2) that the NRC issue a notice of violation with a proposed civil penalty against the licensee in the total amount of \$1,000,000.00 (One-Million) dollars; and (3) that the NRC issue a Confirmatory Order requiring the licensee (to take certain and specific actions) and to bring the Palisades Nuclear Plant to a "cold-shutdown" mode of operation until such time as:

1. The licensee completes an **"independent"** Safety Culture Assessment (SCA) to more fully understand and correct the "root-cause" of multiple violations of NRC safety regulations and requirements at the Palisades Nuclear Plant²; and
2. The licensee completes a comprehensive training program of all station maintenance personnel (including supervision) to ensure the all licensed activities at the Palisades Nuclear Plant comply with the NRC safety regulations and requirements; and
3. The licensee completes a comprehensive training program of all station operations personnel (including supervision) to ensure that all licensed activities at the Palisades Nuclear Plant comply with the NRC safety regulations and requirements; and
4. The licensee completes an **"independent"** safety-assessment thorough [through] a 3rd party contractor to review all Palisades Nuclear Plant operation and maintenance procedures to ascertain whether the procedures require **"risk assessment"** by licensed operations personnel prior to execution; and
5. The licensee completes **"destructive"** testing and analysis to determine: (1) the extent of embrittlement of the Palisades Nuclear Plant reactor vessel; and (2) whether the nuclear reactor vessel remains in full compliance with NRC safety regulations and requirements under 10 C.F.R. §50; and under other NRC authority."

² See, NRC February 14, 2012 – Final Significance Determination of Yellow and White Findings with Assessment Follow up and Notice of Violation NRC Inspection Report Nos. 05000255/2011019 and 05000255/2011020 Palisades Nuclear Plant."

As the basis for this request, you referenced the NRC Inspection Report Nos. 05000255/2011019 and 05000255/2011020 for Palisades Nuclear Plant (PNP). You cite various plant events such as direct current (DC) bus event which occurred on September 25, 2011, and the failure of Service Water pump couplings which occurred in 2007. You contend that the NRC's Notice of Violation issued on February 14, 2012, does not adequately serve to protect public health and safety in these circumstances where, according to your petition, there exists a pervasive and problematic Safety Conscience Work Environment (SCWE) at the PNP. Your petition further states that during a recent NRC hosted public meeting, the NRC admitted and/or acknowledged that the reactor vessel at the PNP was one of the most brittle nuclear reactor vessels in the USA.

On March 12, 2012, the petition manager contacted you via e-mail to describe the petition process under Section 2.206 of Title 10 of the *Code of Federal Regulations* and also requested confirmation for processing your request under 2.206 process. You were also provided the opportunity to address the Petition Review Board (PRB).

On March 15, 2012, you provided the petition manager an acknowledgement via e-mail and also requested the teleconference details to enable you to address the PRB.

On March 16, 2012, the PRB met internally to discuss the request for immediate action. The PRB denied the petition request for immediate action on the basis that there was no immediate safety concern to the plant, or to the health and safety of the public. You did not provide any additional information beyond reference to these events which have been the subject of previous NRC inspection activities for which a resolution has been achieved. In general all the requested actions in the petition do not have sufficient basis for the NRC to take the escalated enforcement. Therefore, the request to require the escalated enforcement action to shutdown PNP and the requested civil penalty were denied.

On March 20, 2012, the petition manager contacted you via e-mail to inform you about the PRB decision on your immediate action request. The petition manager also confirmed the date of the teleconference to address the PRB by phone and provided the necessary details. On April 2, 2012, you addressed the PRB regarding the Palisades issues listed in your petition. Prior to the teleconference, you provided five additional exhibits (Agencywide Documents Access and Management System (ADAMS) Accession No. ML120930709) for consideration as supplemental information to the petition.

The transcript for this teleconference is publicly available (ADAMS Accession No. ML120970603). During the teleconference, you provided your concerns with regard to the Reactor Oversight Process (ROP) process and also requested additional actions which are described in the table in Enclosure 1. The PRB reviewed your petition, including the transcript and supplements, and found that each of the events described in the petition was previously identified in various NRC inspection reports for which a resolution had already been achieved. This list is provided in Enclosure 2.

On May 3, 2012, the PRB met internally and recommended rejecting the petition. The decision to reject the petition was based on the following discussion:

The petitioner does not provide any additional information beyond reference to events which have been the subject of the previous NRC inspection activities (see Enclosure 2) for which a resolution has been achieved. In addition, the petitioner does not provide any additional basis for assessing a violation and civil penalty.

Additionally, the issue of embrittlement of the PNP reactor vessel has also been reviewed by the NRC staff. On December 7, 2011, the NRC issued an evaluation (ADAMS Accession No. ML112870050) concluding that the pressurized thermal shock (PTS) screening criteria will not be reached until April 2017. The licensee has options available to address the PTS issue beyond April 2017. Thus, the NRC considers these issues resolved; the petitioner has not provided any additional basis to support his requested actions.

In general all the requested actions in the petition do not have sufficient basis for the NRC to take the escalated enforcement because the NRC is already aware of, and has resolved, the issues identified. Therefore, your request to take escalated enforcement action to shutdown PNP and the requested civil penalty is denied.

On May 17, 2012, the petition manager informed you via e-mail regarding the initial recommendation of the PRB to reject the petition, and also offered you a second opportunity to address the PRB. On May 17, 2012, you requested written explanation describing in "great detail" about the exact language and the specific reasons for the PRB's initial recommendation. You also requested to address the PRB "in person", with attendance by the full NRC Commission at this meeting.

On May 24, 2012, the petition manager provided you the summary of the basis for rejection of the petition and also provided you with the possible date for the second opportunity to address the PRB in person at the NRC headquarters. On May 25, 2012, you provided your availability for a meeting on July 19, 2012, which was later confirmed by the petition manager. On June 2, 2012, however, you provided us with your decision to decline a second meeting with the PRB on July 19, 2012. On June 6, 2012, the petition manager acknowledged your withdrawal of this request.

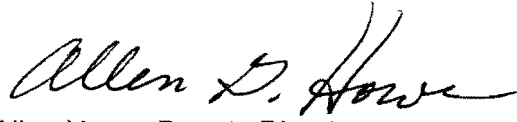
The PRB's final determination is to reject your petition for review under the 10 CFR 2.206 process because it does not meet the criteria for review. The table in Enclosure 1 provides the details for rejecting this petition. There are some issues that are outside the 10 CFR 2.206 process, and other issues identified in your petition that have already been the subject of NRC review, for which resolution has been achieved as stated in NRC MD 8.11, Review Process for 10 CFR 2.206 petitions.

T. Saporito

- 4 -

Thank you for bringing these issues to the attention of the NRC.

Sincerely,

A handwritten signature in black ink, reading "Allen D. Howe". The signature is fluid and cursive, with the first name "Allen" and last name "Howe" clearly distinguishable.

Allen Howe, Deputy Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-255

cc: Distribution via Listserv

Enclosure 1: Summary of Issues and PRB Disposition

Enclosure 2: List of Inspection Reports

Summary of Issues and Petition Review Board Disposition

<i>Specific Issue Raised</i>	<i>Reference</i>	<i>PRB Disposition</i>
1. Escalated enforcement action against Palisades Nuclear Plant (PNP) to suspend or revoke the NRC license granted to the licensee for operation of PNP in USA	Petition Page 3/8	The PRB rejected this request, since all the issues raised in support of the requested action have been the subject of NRC staff review and evaluation. Therefore it meets the criteria for rejection as discussed in Management Directive (MD) 8.11.
2. NRC to issue a notice of violation with a proposed civil penalty against the licensee in the total amount of One-Million dollars	Petition Page 3/8 Transcript – 4/2/12 – Page 42	The PRB rejected this request, since all the issues raised in support of the requested action have been the subject of NRC staff review and evaluation. Therefore it meets the criteria for rejection as discussed in MD 8.11.
3. NRC to issue a Confirmatory Order requiring the licensee to take specific actions and bring PNP down to a “cold-shutdown” mode of operation until a number of requested actions specified in the petition take place.	Petition Page 3/8	The PRB rejected this request, since all the issues raised in support of the requested action have been the subject of NRC staff review and evaluation. Therefore it meets the criteria for rejection as discussed in MD 8.11.
4. The licensee to complete an Independent Safety Culture Assessment.	Petition Page 3/8	The PRB rejected this request, since all the issues raised in support of the requested action have been the subject of NRC staff review and evaluation. Therefore it meets the criteria for rejection as discussed in MD 8.11. On January 11, 2012, at the regulatory conference for the DC breaker event the licensee stated that a third party safety culture assessment was initiated. A 95002 Supplemental inspection will consider any safety culture contribution to this event.
5. The licensee to complete a comprehensive training program of all station maintenance	Petition Page 3/8	The PRB rejected this request, since all the issues raised in support of the requested action have been the subject of NRC staff review and evaluation (see enclosure 2). Therefore it meets the criteria for rejection as discussed in MD 8.11.

<i>Specific Issue Raised</i>	<i>Reference</i>	<i>PRB Disposition</i>
personnel.		
6. The licensee to complete a comprehensive training program of all station operations personnel.	Petition Page 3/8	The PRB rejected this request, since all the issues raised in support of the requested action have been the subject of NRC staff review and evaluation (see enclosure 2). Therefore it meets the criteria for rejection as discussed in MD 8.11.
7. The licensee to complete an independent safety assessment.	Petition Page 3/8	The PRB rejected this request, since all the issues raised in support of the requested action have been the subject of NRC staff review and evaluation (see enclosure 2). Therefore it meets the criteria for rejection as discussed in MD 8.11.
8. The licensee to complete "destructive" testing and analysis of the reactor vessel.	Petition Page 3/8	The PRB rejected this request for not meeting the criterion in MD 8.11. The facts provided are not sufficient to support the statement that the sustained embrittlement is not in compliance with NRC regulations of 10 CFR, Part 50.
9. The petitioner is concerned that the NRC's Notice of Violation issued on February 14 th , 2012, does not adequately serve to protect public health and safety at the Palisades Nuclear Plant.	Petition Page 5/8	The PRB rejected this request because it is not a request for enforcement action against the licensee. Therefore, it does not meet the first criteria for reviewing petitions under 10 CFR 2.206.
10. The petitioner's concerns were that his teleconference with PRB was not noticed and also NRC actions do not protect public health and safety.	Transcript – 4/2/12 – Page 15 & 16	<p>The PRB rejected this request because it is not a request for enforcement action against the licensee. Therefore, it does not meet the first criteria for reviewing petitions under 10 CFR 2.206.</p> <p>The PRB notes that you were advised via e-mail on April 2, 2012, that page 10 of MD 8.11, "Review Process for 10 CFR 2.206 Petitions," states: "If the petitioner chooses to address PRB by telephone, it is not considered a meeting and no public notice is necessary."</p>
11. The petitioner's concern is with Reactor Oversight Process (ROP) which he believes to	Transcript – 4/2/12 – Pages 17 & 43	The PRB rejected this request because it is not a request for enforcement action against the licensee. Therefore, it does not meet the first criteria for reviewing petitions under 10 CFR 2.206. However, the PRB referred this to the Office of the Inspector General (OIG).

<i>Specific Issue Raised</i>	<i>Reference</i>	<i>PRB Disposition</i>
be a reactive process, rather than a proactive process and that it is because of failure of NRC's regulatory framework for ROP that resulted at least in part to the serious nuclear safety violations at the Palisades Nuclear Plant.		
12. The petitioner would like the PRB and IG to make a special note of Mr. McIntyre's comments referenced in the transcript.	Transcript – 4/2/12 – Page 21	The PRB rejected this request because it is not a request for enforcement action against the licensee. Therefore, it does not meet the first criteria for reviewing petitions under 10 CFR 2.206. However, the PRB referred this to the Office of the Inspector General.
13. The petitioner made the statement that regulators and reactor operators have loosened or bent the rules. The petitioner further states, "They're just trying to get more and more out of these plants."	Transcript – 4/2/12 – Page 26	The PRB rejected this request because it is not a request for enforcement action against the licensee. Therefore, it does not meet the first criteria for reviewing petitions under 10 CFR 2.206. However, the PRB referred this to the Office of the Inspector General.
14. The petitioner requests that the NRC must review the entirety of the licensee's history of violations over the years, significant and serious violations of NRC regulations and requirements during	Transcript – 4/2/12 – Page 40	The PRB rejected this request because the Reactor Oversight Process provides for licensee performance assessment on a continuing basis through mid-cycle and end-of-cycle assessments and an Action Matrix of responses from the NRC. An assessment of safety culture is provided through crosscutting issues defined in Chapter 0310 of the NRC Inspection Manual. In addition, past performance is a consideration in determining traditional escalated enforcement actions.

<i>Specific Issue Raised</i>	<i>Reference</i>	<i>PRB Disposition</i>
licensed operations at the Palisades Nuclear Plant.		
15. The petitioner is not satisfied with the enforcement of fines. He feels that in comparison to other sites, Palisades was not given the stiff monetary fines.	Transcript – 4/2/12 – Page 41	The PRB rejected this request because it is not a request for enforcement action against the licensee. Therefore, it does not meet the first criteria for reviewing petitions under 10 CFR 2.206.
16. The petitioner is requesting profiling of each licensee employee.	Transcript – 4/2/12 – Page 42	The PRB rejected this request because the petitioner does not provide sufficient facts that constitute bases for this action as required by the criteria under 10 CFR 2.206.
17. The petitioner is also stressing that NRC should think outside of the box in light of the Fukushima event.	Transcript – 4/2/12 – Page 47	The PRB rejected this request because the petitioner's request is not a process established by regulation that would lead to an enforcement action against the licensee. Therefore, it does not meet the criteria for reviewing the petitions under 10 CFR 2.206.

List of Inspection Reports

In the teleconference with the PRB the petitioner cited various plant events (see transcript dated April 2, 2012 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML120930709).

Following is the list of inspection reports associated with the events:

On Page 30 of the transcript, reference is made to the order issued to Entergy Nuclear Operations, Inc. for the operator leaving the controls. The document has inspection report number 05000255/2011015:

January 25, 2012

EA-11-214 (Accession No. ML12026A383)

SUBJECT: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY)
(NRC INSPECTION REPORT NO. 05000255/2011015 AND NRC OFFICE OF
INVESTIGATIONS REPORT NO. 3-2011-003)
PALISADES NUCLEAR PLANT

On pages 30-31 of the transcript, reference is made to the auxiliary feedwater pump WHITE finding documented in inspection report 05000255/2011017:

January 3, 2012

EA-11-227 (Accession No. ML120030406)

SUBJECT: FINAL SIGNIFICANCE DETERMINATION OF WHITE FINDING WITH
ASSESSMENT FOLLOWUP AND NOTICE OF VIOLATION
NRC INSPECTION REPORT NO. 05000255/2011017
PALISADES NUCLEAR PLANT

On pages 31-32 of the transcript, reference is made to the spent fuel pool WHITE finding issued in inspection report 05000255/2010007:

January 20, 2010

EA-09-269 (Accession No. ML100200720)

SUBJECT: FINAL SIGNIFICANCE DETERMINATION FOR A WHITE FINDING;
NOTIFICATION OF FOLLOW-UP ASSESSMENT; AND NOTICE OF
VIOLATION; NRC INSPECTION REPORT NO. 05000255/2010007;
PALISADES NUCLEAR PLANT

On pages 32 of the transcript, reference is made to the radiological exposure WHITE finding in inspection report numbered 05000255/2008011:

January 30, 2009

EA-08-322 (Accession No. ML090300334)

SUBJECT: FINAL SIGNIFICANCE DETERMINATION FOR A WHITE FINDING AND
NOTICE OF VIOLATION; NRC INSPECTION REPORT NO. 05000255/2008011;
PALISADES NUCLEAR PLANT

On pages 33-34 of the transcript, reference is made to the DC breaker YELLOW finding in inspection report numbered 05000255/2011020:

February 14, 2012

EA-11-241

EA-11-243 (Accession No. ML120450037)

SUBJECT: FINAL SIGNIFICANCE DETERMINATION OF YELLOW AND WHITE FINDINGS WITH ASSESSMENT FOLLOWUP AND NOTICE OF VIOLATION

NRC INSPECTION REPORT NOS. 05000255/2011019 AND 05000255/2011020

PALISADES NUCLEAR PLANT

On pages 35-36 of the transcript, reference is made to the service water (SW) pump P-7C coupling WHITE finding in inspection report numbered 05000255/2011019 issued with 05000255/2011020:

February 14, 2012

EA-11-241

EA-11-243 (Accession No. ML120450037)

SUBJECT: FINAL SIGNIFICANCE DETERMINATION OF YELLOW AND WHITE FINDINGS WITH ASSESSMENT FOLLOWUP AND NOTICE OF VIOLATION

NRC INSPECTION REPORT NOS. 05000255/2011019 AND 05000255/2011020

PALISADES NUCLEAR PLANT

On pages 35-38 of the transcript, reference is made to the significance determination process conclusions for both the SW pump P-7C coupling WHITE finding and the DC breaker Yellow finding in inspection reports numbered 050002011019 and 2011020 together.

On pages 39 of the transcript, reference is made to the DC breaker YELLOW finding in the inspection report numbered 050002011020 timeline or the special inspection team report of the event in inspection report 05000255/2011014:

November 29, 2011

EA-11-243 (Accession No. ML113330819)

SUBJECT: PALISADES NUCLEAR PLANT - NRC SPECIAL INSPECTION TEAM (SIT) REPORT 05000255/2011014 PRELIMINARY YELLOW FINDING

October 4, 2011

SUBJECT: PALISADES NUCLEAR PLANT - NRC SPECIAL INSPECTION TEAM (SIT) REPORT 05000255/2011012 (Accession No. ML112780190)

And, the preliminary SW coupling finding was issued in the following report

November 29, 2011

EA-11-241 (Accession No. ML113330819)

SUBJECT: PALISADES NUCLEAR PLANT, NRC INSPECTION REPORT 05000255/2011016; PRELIMINARY WHITE FINDING

T. Saporito

- 4 -

Thank you for bringing these issues to the attention of the NRC.

Sincerely,

/RA/

Allen Howe, Deputy Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-255

cc: Distribution via Listserv

Enclosure 1: Summary of Issues and PRB Disposition

Enclosure 2: List of Inspection Reports

DISTRIBUTION: G20120149/EDATS: OEDO-2012-0127

PUBLIC	LPL3-1 R/F	RidsNrrDorlLpl3-1 Resource	RidsNrrPMPalisades Resource
RidsNrrDorl Resource		RidsNrrOd Resource	RidsNrrLABTully Resource
RidsNrrMailCenter Resource		RidsOiMailCenter Resource	RidsEdoMailCenter
RidsOeMailCenter Resource		RidsRgn3MailCenter Resource	RidsOgcRp Resource
RidsOcaMailCenter Resource		JJandovitz, R3	RidsOpaMail Resource
MBanic, NRR		MLemoncelli, OGC	AZoulis, NRR
DAiley, NRR		KRoche, NRR	SSheng, NRR
DMuller, NRR		VGoel, NRR	MKeefe, NRR
RidsNrrAcrsAcnwMailCTR		RLerch, R3	JGiessner, R3

Package: ML12181A245

Incoming: ML12065A1430

Response: ML12173A481

*via email

OFFICE	LPL3-1/PM	LPL3-1/LA	DE/EEEB/BC	DRA/APLA/BC	DE/EVIB/BC	DE/EPNB/BC(A)	DRA/AHPB/BC
NAME	MChawla	BTully	JAndersen	SWeerakkody*	SRosenberg /CFairbanks for	DAiley	UShoop
DATE	6/25/12	6/25/12	6/25/12	6/27/12	6/28/12	6/28/12	6/28/12
OFFICE	DIRS/IOLB/BC	DIRS/IPAB/BC	DPR/PM	RGNIII	OGC *NLO	LPL3-1/BC(A)	DORL/DD
NAME	JMcHale /DAIIsopp	RFranovich /RFrahm for	MBanic	RLerch*	MLemoncelli	IFrankl	AHowe
DATE	6/29/12	6/28/12	6/29/12	6/25/12	7/11/12	6/29/12	7/26/12

OFFICIAL RECORD COPY