

**UNITED STATES NUCLEAR REGULATORY COMMISSION  
BEFORE THE EXECUTIVE DIRECTOR FOR OPERATIONS**

*In the Matter of:*

**SAPRODANI ASSOCIATES,**

**DATE: 06 MAR 2016**

**and**

**THOMAS SAPORITO**

**Petitioner,**

**v.**

**FLORIDA POWER & LIGHT COMPANY  
ST. LUCIE NUCLEAR POWER PLANT - UNITS 3&4  
TURKEY POINT NUCLEAR POWER PLANT – UNITS 1&2**

**and**

**ALL NRC LICENSEES,  
(w/similarly designed commercial nuclear power stations)**

**Licensee.**

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**PETITION UNDER 10 C.F.R. §2.206  
SEEKING ENFORCEMENT ACTION AGAINST  
THE ABOVE-CAPTIONED NRC LICENSEES**

NOW COMES, SaproDani Associates, by, through and with, Thomas Saporito, Senior Consultant for SaproDani Associates (hereinafter "Petitioner") and submits a *Petition Under 10 C.F.R. §2.206 Seeking Enforcement Action Against The Above-Captioned NRC Licensees* related to operation of licensed commercial nuclear power stations – (hereinafter "Petition"). For the reasons stated below, the U.S. Nuclear Regulatory Commission (NRC) should grant the Petition as a matter of law:

**NRC HAS JURISDICTION AND AUTHORITY TO GRANT PETITION**

The NRC is the government agency mandated by the United States Congress to protect public health and safety - and the environment - related to operation of civilian

commercial nuclear reactors in the United States of America (USA). Congress charged the NRC with this grave responsibility in creation of the agency through passing the Energy Reorganization Act of 1974 (ERA). In the instant action, the above-captioned entity(s) is/are collectively and singularly a “licensee” of the NRC and subject to NRC regulations and authority under 10 C.F.R. §50 and under other NRC regulations and authority in the operation of one or more nuclear reactors. Thus, through Congressional action in creation of the agency; and the fact that the named-actionable party(s) identified above by the Petitioner is/are collectively and singularly a licensee of the NRC, the agency has jurisdiction and authority to grant the Petition.

## **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.

**REQUEST FOR ENFORCEMENT-RELATED ACTION TO MODIFY,  
SUSPEND, OR REVOKE A LICENSE AND ISSUE A NOTICE OF  
VIOLATION WITH A PROPOSED CIVIL PENALTY**

**A. Request for Enforcement-Related Action**

Petitioner respectfully requests that the NRC: (1) take escalated enforcement action against the above-captioned licensee(s) and issue a Confirmatory Order to the licensee(s) requiring the licensee(s) to take their nuclear reactors and/or nuclear facilities to a “cold-shutdown” mode of operation until such time as:

1. The licensee completes an ***“independent”*** assessment to fully understand and correct the potential and/or realized security threat posed by outside organizations and/or individuals related to the operation of “intake cooling water structures, piping, and facilities” - providing an unauthorized means of ingress to the protected area of the nuclear facility - to attack the licensees' nuclear facility; and
2. The licensee completes a comprehensive evaluation of their nuclear security program as it relates to any potential and/or realized security threat posed by outside organizations and/or individuals related to the operation of “intake cooling water structures, piping, and facilities” - providing an unauthorized means of ingress to the protected area of the nuclear facility - to attack the licensees' nuclear facility; and
3. The licensee identifies and implements measures to correct any deficiencies in

its security plan – related to any potential and/or realized security threat posed by outside organizations and/or individuals related to the operation of “intake cooling water structures, piping, and facilites” - providing an unauthorized means of ingress to the protected area of the nuclear facility - to attack the licensees' nuclear facility; and

4. The licensee completes an updated and approved physical security plan to the NRC which documents actions and measures in writing to be taken against any potential and/or realized security threat posed by outside organizations and/or individuals related to the operation of “intake cooling water structures, piping, and facilites” - providing an unauthorized means of ingress to the protected area of the nuclear facility - to attack the licensees' nuclear facility.

**B. Facts That Constitute the Basis for Taking the Requested Enforcement-Related Action Requested by Petitioner**

On March 4<sup>th</sup>, 2016 – various local media in the State of Florida – reported that Christopher Le Cun said he was sucked into an intake at the St. Lucie nuclear power plant. *See Attachment One.*

On July 12, 2015 Le Cun was enjoying a day of boating and scuba diving with his family and friends off the coast of Hutchinson Island. "We were going from rock pile to rock pile and we saw a yellow buoy," said Le Cun. The buoy marks three massive submerged structures, so large their silhouettes can be seen from hundreds of feet above. "Did you have any idea what they were?" Asked News Channel 5's Jared Werksma. "No, no clue, it actually was amazing to see," said Robert Blake. I kind of felt like I got sucked over a waterfall and just instantly complete darkness. I was getting tumbled around and around. I'm trying to hold onto my mask and my regulator. I finally get a hold of my light and I'm trying to look around. As far as you can see, it's just black," Le Cun explained. FPL says the pipe Christopher was in is 16 feet across, about a quarter-mile long and sucks around 500,000 gallons of water per minute which is used to cool the plants nuclear reactors. "It's about a 4 1/2 to 5 minute ride. You get to do a lot of thinking," said Le Cun. "I knew something was drawing all this water. All I could think about was these horror movies you know, this big turbine coming and I'm coming for it. You know, it's going to chop me up and kill me" Le Cun said with tears in his eyes. "I contemplated, you know, do I just pull the regulator out of my mouth and just die. I started thinking about my family, you know, how are they going to survive without me," Le Cun said. Finally Christopher says he saw the first indication that his long, dark journey was about to end one way or another. "All of a sudden it looks like a match, out in the distance, just the littlest bit of what you've ever seen. When I gets a little bigger, then a little bigger. Then all of a sudden just poof daylight. Fish everywhere, crystal-clear water the sun is shining and I'm like is this heaven?!" Le Cun exclaimed as if he was reliving it as

we spoke. He was still on earth and counting his blessings as he pulled himself out of one of the reservoirs at the nuclear plant and spotted an employee. Le Cun recalls, "I'm yelling help, help and he says 'how did you get in here?' And I said 'I came through the pipe' and he says..."what?"

**NRC regulations and requirements at 10 CFR 37.43 – state in part that:**

(a) *Security plan.* (1) Each licensee identified in § 37.41(a) shall develop a written security plan specific to its facilities and operations. The purpose of the security plan is to establish the licensee's overall security strategy to ensure the integrated and effective functioning of the security program required by this subpart. The security plan must, at a minimum:

(i) Describe the measures and strategies used to implement the requirements of this subpart; and

(ii) Identify the security resources, equipment, and technology used to satisfy the requirements of this subpart.

(2) The security plan must be reviewed and approved by the individual with overall responsibility for the security program.

(3) A licensee shall revise its security plan as necessary to ensure the effective implementation of Commission requirements. The licensee shall ensure that:

(i) The revision has been reviewed and approved by the individual with overall responsibility for the security program; and

(ii) The affected individuals are instructed on the revised plan before the changes are implemented.

(4) The licensee shall retain a copy of the current security plan as a record for 3 years after the security plan is no longer required. If any portion of the plan is superseded, the licensee shall retain the superseded material for 3 years after the record is superseded.

(b) *Implementing procedures.*

(1) The licensee shall develop and maintain written procedures that document how the requirements of this subpart and the security plan will be met.

(2) The implementing procedures and revisions to these procedures must be approved in writing by the individual with overall responsibility for the security program.

(3) The licensee shall retain a copy of the current procedure as a record for 3 years

after the procedure is no longer needed. Superseded portions of the procedure must be retained for 3 years after the record is superseded.

(c) *Training.* (1) Each licensee shall conduct training to ensure that those individuals implementing the security program possess and maintain the knowledge, skills, and abilities to carry out their assigned duties and responsibilities effectively.

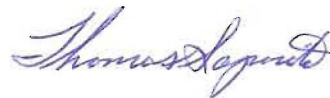
**C. There Is No NRC Proceeding Available in Which the Petitioner is or Could be a Party and Through Which Petitioner's Concerns Could be Addressed**

Petitioner avers here that 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.

**CONCLUSION**

FOR ALL THE ABOVE STATED REASONS, and because Petitioner has amply satisfied all the requirements under 10 C.F.R. §2.206 for consideration of the Petition by the NRC Petition Review Board (PRB), the NRC should grant Petitioner's requests made in the instant Petition as a matter of law.<sup>1</sup>

Respectfully submitted,



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<sup>1</sup> One Attachment included in support of this 2.206 Petition.

## **Attachment - One**

# Scuba diver sucked in to nuclear plant water pipe files suit against Florida Power and Light

**BY:** Jared Werksma (<mailto:jared.werksma@wptv.com>)

**POSTED:** 12:04 AM, Mar 4, 2016

**UPDATED:** 13 mins ago

A scuba diver and South Florida native who says he's lucky to be alive is filing suit against Florida Power and Light. Christopher Le Cun said he was sucked into an intake at the St. Lucie nuclear power plant.

This has happened at least once before back in 1989. Both scuba divers have almost identical tales of roughly five minutes of terror that they were sure would cost them their lives.

On July 12, 2015 Le Cun was enjoying a day of boating and scuba diving with his family and friends off the coast of Hutchinson Island.

"We were going from rock pile to rock pile and we saw a yellow buoy," said Le Cun.

The buoy marks three massive submerged structures, so large their silhouettes can be seen from hundreds of feet above.

"Did you have any idea what they were?" Asked News Channel 5's Jared Werksma. "No, no clue, it actually was amazing to see," said Robert Blake.

Best friends since high school Blake and Christopher tied their boat to the buoy and dove in to check out what was beneath while their families stayed behind on the boat.

"Were there any warnings posted anywhere?" Werksma asked.

"Nowhere, there was no warnings whatsoever," said Le Cun.

Florida Power & Light disagrees. A spokesman said since the plant was built the buoy has always read "stay back 100 feet" but both Blake and Le Cun claim there was no indication of danger, written or otherwise, until it was too late.

"I swam right up to this big structure and it looks like a building underwater. I felt a little bit of



current. All of a sudden It got a little quicker and I said this ain't right, this ain't right," said Le Cun.

"He got sucked in like a wet noodle. He just, poof, gone," said Blake.

"What were you feeling at that point, I mean when you saw him get pulled in?" asked Werksma.

"Instant death. I saw my friend die," said Blake.

Blake surfaced in a panic screaming to the boat that Chris was gone that "something sucked him in." Chris's wife Brittany Le Cun says she thought Blake was joking until she saw the look on his face.

"All I remember doing was grabbing my son, holding him, crying and praying out loud," Brittany said.

"Did you think he was gone," Werksma asked? "Yes," Brittany replied.

But deep beneath the surface Chris was holding on.

"I kind of felt like I got sucked over a waterfall and just instantly complete darkness. I was getting tumbled around and around. I'm trying to hold onto my mask and my regulator. I finally get a hold of my light and I'm trying to look around. As far as you can see, it's just black," Le Cun explained.

FPL says the pipe Christopher was in is 16 feet across, about a quarter-mile long and sucks around 500,000 gallons of water per minute which is used to cool the plants nuclear reactors.

"It's about a 4 1/2 to 5 minute ride. You get to do a lot of thinking," said Le Cun.

"I knew something was drawing all this water. All I could think about was these horror movies you know, this big turbine coming and I'm coming for it. You know, it's going to chop me up and kill me" Le Cun said with tears in his eyes.

"I contemplated, you know, do I just pull the regulator out of my mouth and just die. I started thinking about my family, you know, how are they going to survive without me," Le Cun said.

Finally Christopher says he saw the first indication that his long, dark journey was about to end one way or another.

"All of a sudden it looks like a match, out in the distance, just the littlest bit of what you've ever seen. When I gets a little bigger, then a little bigger. Then all of a sudden just poof daylight. Fish everywhere, crystal-clear water the sun is shining and I'm like is this heaven?!" Le Cun exclaimed as

if he was reliving it as we spoke.

He was still on earth and counting his blessings as he pulled himself out of one of the reservoirs at the nuclear plant and spotted an employee.

Le Cun recalls, "I'm yelling help, help and he says 'how did you get in here?' And I said 'I came through the pipe' and he says..."what?"

Le Cun says he was tattered and bruised but he could only think of one thing, "I said need a phone, I gotta call my wife."

Brittany was on the phone trying to explain to a 911 dispatch what had just happened to her husband. So when calls started coming in from an unfamiliar number naturally she ignored it. Until the third time Chris called.

"Somethings just telling me to pick up the phone so I did," said Brittany.

"She picks up and she just goes 'hello' and I said 'I'm alive,'" Le Cun remembers.

We asked Florida Power and Light about this incident and safety features at the St. Lucie nuclear power plant. We received this statement:

Nothing is more important safety at our St. Lucie nuclear power plants, which is a reason that we have a protective Over the intake piping. The diver intentionally swam into one of the intake pipes after bypassing a piece of equipment to minimize the entry of objects.

FPL would not comment on the pending litigation which claims negligence for inadequate safety precautions.

Le Cun is hoping it will lead to safety improvements before this happens a third time.

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## **NRCExecSec Resource**

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**From:** Thomas Saporito <saprodani@gmail.com>  
**Sent:** Sunday, March 06, 2016 12:00 PM  
**To:** NRCExecSec Resource  
**Subject:** [External\_Sender] Enforcement 2.206 Petition - Florida Power & Light Co.  
**Attachments:** 2016.03.06 - 2.206 Petition.pdf

Annette Vietti-Cook  
Secretary for the NRC  
U.S. Nuclear Regulatory Commission

Dear Ms. Cook:

Please provide the attached Enforcement 2.206 Petition to the NRC Executive Director at your earliest opportunity for processing under NRC regulations accordingly. Should you have any questions regarding this important matter - please do not hesitate to contact me at your convenience.

Sincerely,  
Thomas Saporito

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