

DOCKETED  
USNRC

'90 MAY 22 P2:39

UNITED STATES OF AMERICA  
BEFORE THE NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of,

ARIZONA PUBLIC SERVICE CO.,

) Docket Nos. 50-528, 50-529  
) and 50-530  
)

REQUEST FOR INSTITUTION OF PROCEEDINGS TO MODIFY,  
SUSPEND OR REVOKE LICENSE PURSUANT TO 10 CFR 2.206

To: Kenneth Carr, Chairman  
U.S. Nuclear Regulatory Commission

1. Petitioner, Linda E. Mitchell, is a resident of the City of Buckeye, County of Maricopa, State of Arizona. Mrs. Mitchell is employed by Arizona Public Service Co. ("APS") as an associate electrical engineer at the Palo Verde Nuclear Generating Station ("PVNGS" or "Palo Verde"), located approximately 50 miles west of downtown Phoenix, Arizona. Mrs. Mitchell is a well-known whistleblower at Palo Verde.

2. APS is an operating public utility engaged principally in the business of furnishing electric service throughout the State of Arizona. APS is a wholly owned subsidiary of Pinnacle West Corporation.

3. Pursuant to operating licenses issued by the U.S. Nuclear Regulatory Commission ("NRC"), NRC License Nos. NPF-41, NPF-51 and NPF-74, APS was authorized to act as an agent for the licensees and had exclusive responsibility and control over the physical construction, operation and maintenance of PVNGS, which includes three identical, separate, pressurized-water-reactor plants.

4. Petitioner hereby requests, under the provisions of 10 CFR 2.206, the institution by the NRC of a proceeding pursuant to 10 CFR 2.202 to modify, suspend or revoke the license of the licensee.

5. The facts that constitute the basis of this request are as follows:

(a) On March 21, 1990 Mr. William F. Conway, APS Executive Vice President, Nuclear, was informed by NRC Region V of a Notice of Violation regarding Palo Verde's emergency lighting system. This Notice of Violation involved a previous

9006270108 900621  
PDR ADOCK 05000528  
PDC

"failure to properly maintain and perform required surveillance tests of the emergency lighting system," which resulted in a 1989 civil penalty of approximately \$100,000. Although APS failed to comply with NRC requirements in an area for which it was assessed a fine, the NRC did not propose to fine APS for its repeated wilful violations in March 1990.

(b) On April 24, 1990 NRC Region V informed Mr. Conway of "several concerns regarding the status of [Palo Verde's] 10 CFR 50, Appendix R, emergency lighting" as well as its fire protection/prevention program. These concerns arose as a result of a "routine inspection." See, Inspection Report Nos. 50-528/90-02, 50-529/90-02, 50-530/90-02. However, due to the improper influence from APS officials Inspection Report 90-02 was watered down to cover up additional concerns raised by Petitioner and verified by an NRC inspector, "John Doe".

(c) Prior to the issuance of Inspection Report 90-02 APS was informed by the NRC Region V inspection team of approximately 14 potential violations which could result in substantial civil penalties and/or fines.

(d) Upon learning of these serious potential violations APS management, including E.C. Simpson, APS Vice President, Nuclear Engineering and Construction, began a concerted effort to harass and discredit the John Doe NRC inspector through his superiors at NRC Region V. APS' intent was to cover up and suppress additional serious violations, many of which Petitioner's supervision at APS recognized were legitimate concerns.

(e) Petitioner personally witnessed her superiors at APS state that APS was about to contact NRC management to "back off" the John Doe inspector. APS employees, including Kristin McCanless Clark, made disparaging and false comments about John Doe, openly criticized John Doe for aggressively monitoring the PaloVerde emergency lighting system and, over a two-week period, boasted that APS management was going to "get rid of" John Doe. In addition, Petitioner's immediate supervision often referred to John Doe as "your buddy" in conversations with Petitioner and bragged that APS was about to get John Doe in trouble for being too aggressive.

(f) On or about May 10, 1990, an APS employee told Petitioner that APS would get John Doe transferred to Region IV because he was causing too much trouble for Palo Verde and the San Onofre Nuclear Generating Station ("SONGS") regarding 10 CFR 50, Appendix R, emergency lighting requirements.

(g) Upon information and belief, APS learned that John Doe had confirmed that APS parts used in the PVNGS emergency lighting system did not meet Appendix R requirements by failing to burn for sufficient hours and could not withstand heat levels at PVNGS.

(h) Upon information and belief, James M. Levine, APS Vice President, Nuclear Production, contacted R.P. Zimmerman, Director, NRC Region V, Division of Reactor Safety and Projects, and accused John Doe of misconduct.

(i) Upon information and belief, Mr. Conway contacted John Martin, NRC Region V Administrator, and also accused John Doe of misconduct.

(j) Upon information and belief, the contacts by Mr. Conway and Mr. Levine of APS to John Doe's superiors at NRC Region V contained misrepresentations and false accusations and were intended to impede and interfere with an ongoing NRC inspection.

(k) Upon information and belief, John Doe was retaliated against by NRC Region V management as a direct result of the communications made by Mr. Conway and Mr. Levine.

(l) Upon information and belief, NRC Inspection Report 90-02 was watered down by the NRC Region V management in order to whitewash significant safety problems at Palo Verde as a direct result of the communications made by Mr. Conway and Mr. Levine.

6. The violations, if permitted to continue, will produce the following potential hazardous environmental conditions:

(a) Serious violations in the Palo Verde emergency lighting and fire protection systems, which have gone uncorrected for at least five (5) years, will continue unabated.

(b) The duties and rights of NRC inspectors to investigate and inspect potential violations at NRC licensed facilities will be severely chilled due to the fear of retaliation by NRC management and NRC licensees.

(c) The rights of employees at NRC licensed facilities, including Petitioner, to speak freely and raise concerns with NRC inspectors as well as employee rights to raise safety concerns without fear of

retaliation in general will be severely chilled.

WHEREFORE, Petitioner prays for the following relief:

- (1) That the NRC institute a proceeding against APS pursuant to 10 CFR 2.202 to modify, revoke or suspend the above-referenced license.
- (2) That APS be cited for violations improperly and illegally deleted from NRC Inspection Report 90-02.
- (3) That APS, William Conway, and James Levine be fined \$1,000,000.00, jointly and severally, for tampering, obstructing and impeding an ongoing NRC inspection.
- (4) That any and all NRC employees involved in retaliation against John Doe be disciplined.
- (5) Such other and further relief as the NRC may deem appropriate.

Respectfully submitted,

  
David K. Colapinto

Kohn, Kohn & Colapinto, P.C.  
517 Florida Ave., N.W.  
Washington, D.C. 20001  
(202) 234-4663

Attorneys for Linda E. Mitchell

May 22, 1990

cc:  
NRC Exec. Dir. for Operations



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555  
EDO Principal Correspondence Control

6/21/90

FROM:

DUE: ~~06/14/90~~

EDO CONTROL: 0005488

DOC DT: 05/22/90

FINAL REPLY:

David K. Colapinto

TO:

Chairman Carr

FOR SIGNATURE OF:

\*\* GRN \*\*

CRC NO:

DESC:

ROUTING:

2.206 - LINDA E. MITCHELL REQUEST TO MODIFY,  
SUSPEND OR REVOKE PALO VERDE LICENSE

Murley, NRR  
JMartin, RV

DATE: 05/23/90

ASSIGNED TO:

CONTACT:

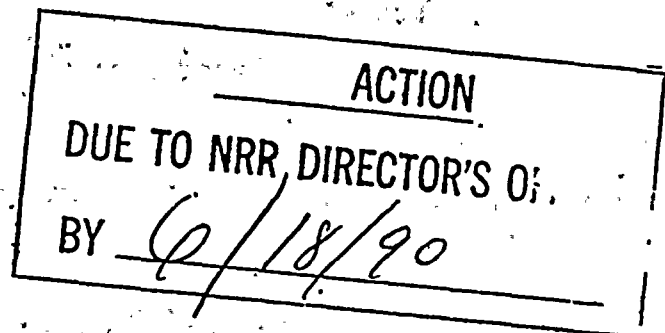
~~Scinto~~ *nnn*

Scinto

SPECIAL INSTRUCTIONS OR REMARKS:

NRR RECEIVED: JUNE 14, 1990  
ACTION DRSP CRUTCHFIELD

NRR ROUTING MURLEY  
MIRAGLIA  
RUSSELL  
PARTLOW  
GILLESPIE  
SMYRE



*ACH*



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555  
EDO Principal Correspondence Control

FROM:

6/21/90  
DUE: ~~06/14/90~~

EDO CONTROL: 0005488

DOC DT: 05/22/90

FINAL REPLY:

David K. Colapinto

TO:

Chairman Carr

FOR SIGNATURE OF:

\*\* GRN \*\*

CRC NO:

DESC:

ROUTING:

2.206 - LINDA E. MITCHELL REQUEST TO MODIFY,  
SUSPEND OR REVOKE PALO VERDE LICENSE

Murley, NRR  
JMartin, RV

DATE: 05/23/90

ASSIGNED TO:

CONTACT:

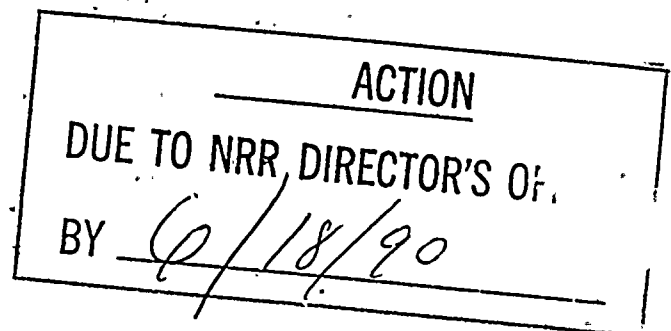
OGC

Scinto

SPECIAL INSTRUCTIONS OR REMARKS:

NRR RECEIVED: JUNE 14, 1990  
ACTION DRSP CRUTCHFIELD

NRR ROUTING MURLEY  
MIRAGLIA  
RUSSELL  
PARTLOW  
GILLESPIE  
SMYRE



ACH

**10 CFR 2.790  
INFORMATION EXEMPT FROM  
PUBLIC DISCLOSURE**

**ATTACHMENT 6**

**OFFICE OF THE INSPECTOR GENERAL  
INVESTIGATIVE REPORT  
CASE NO. 90-45H**