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SUBJECT: Requests that NRC initiate actions to cause issuance of
 escalated civil penalty re violation.

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Thomas E. Murley, Director
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

12 AUG 1992

Re: Licensee: Arizona Public Service Company
Palo Verde Nuclear Generating Station
License Nos.: NPF-41, 51, 74
Docket Nos.: 50-528, 529, 530

Dear Dr. Murley:

Pursuant to Title 10 of the Code of Federal Regulations, Section 2.206, Petitioner, Thomas J. Saporito, Jr., requests specific actions by the Nuclear Regulatory Commission (NRC), within a reasonable time, directed to the Licensee, Arizona Public Service Company, regarding operations at the Palo Verde Nuclear Generating Station (PVNGS).

Specific Request:

1. Petitioner requests that the NRC initiate actions to cause the issuance of a Notice of Violation directed to the licensee for a violation of NRC requirements described in Paragraph 2E of the Facility Operating License No. NPF-51 for the Arizona Public Service Company, Palo Verde Nuclear Generating Station (PVNGS), Unit 2.

2. With respect to Item No. 1 above, Petitioner requests that the NRC initiate actions to cause the issuance of an escalated civil penalty regarding the violation.

3. Petitioner requests that the NRC initiate actions to cause the issuance of a Notice of Violation directed to the licensee for a violation of NRC requirements described in 10 C.F.R. Part 50, Appendix B, Criterion V, Instructions, Procedures, and Drawings.

4. With respect to Item No. 3 above, Petitioner requests that the NRC initiate actions to cause the issuance of an escalated civil penalty regarding the violation.

Basis and Justification:

1. (a) Paragraph 2E of Facility Operating License No. NPF-51 for the Arizona Public Service Company (APS), Palo Verde Nuclear Generating Station, Unit 2, states, in part, that:

"APS shall fully implement and maintain in effect all provisions of the Commission approved physical security...plan, including amendments made

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pursuant to ...the authority of 10 C.F.R. 50.90 and 10 C.F.R. 50.54(p)."

(b) The licensee's approved "Palo Verde Nuclear Generating Station Security Plan," dated October 1979, as amended, at Section 1.6.1.2 (entitled "Vital Areas/Island") states, in part, that temporary access may be authorized to specific vital areas provided that:

"...3) The visitor is escorted and monitored by an individual possessing unescorted access status..."

(c) Section 1.6.1.3 (entitled "Escorts") further requires that:

"1) All escortees remain in view of the Escorts, and 2) The Escort can provide positive control over the escortees."

Contrary to the above, during the period of October-December, 1991, Petitioner directly observed the failure of licensee escorts to maintain positive control over their assigned escortees (visitors). See Department of Labor (DOL), case files (92-ERA-30), Saporito v. Arizona Public Service Company, and The Atlantic Group; See also, APS deposition of Saporito taken on July 23 & 24, 1992, concerning Case No. 92-ERA-30 and operations at the Palo Verde Nuclear Generating Station, Unit 2.

2. This is a repetitive Violation of NRC requirements at the Palo Verde Nuclear Generating Station, Unit 2. See NRC Notice of Violation 50-529/91-35-05.

3. (a) 10 C.F.R. Part 50, Appendix B, Criterion V, "Instructions, Procedures, and Drawings," states, in part, that:

"...Instructions, procedures or drawings shall include appropriate quantitative or qualitative acceptance criteria for determining that important activities have been satisfactory accomplished."

"Activities affecting quality shall be prescribed by documented instructions, procedures or drawings of a type appropriate to the circumstances, and shall be accomplished in accordance with these instructions, procedures, or drawings..."

(b) Palo Verde Nuclear Administrative and Technical Manual Procedure 94AC-0LC02, Review of Condition Adverse to Quality for 10 C.F.R. 21, requires, in part, that a finding be

evaluated and a Reportability Evaluation Report be initiated if the finding is determined to be a deviation. Furthermore, Paragraph 4.2 of 94AC-OLC02, defines a "deviation", in part, as "A departure from the technical requirements included in a procurement document (an Engineering or design document).

(c) The licensee's Technical Specifications at Section 6.8, address Procedures and Programs for operations at the Palo Verde Nuclear Generating Station.

Specifically, Technical Specification 6.8.1 states, in part, that:

"Written procedures shall be established, implemented, and maintained covering the activities referenced below:

a. The applicable procedures recommended in Appendix A of Regulatory Guide 1.33, Revision 2, February 1978, and those required for implementing the requirements of NUREG-0737.

b. Refueling operations.

c. Surveillance and test activities of safety-related equipment.

d. Security Plan implementation.

e. Emergency Plan implementation.

f. Fire Protection Program implementation.

g. Modification of Core Protection Calculator (CPC) Addressable Constants.

h. PROCESS CONTROL PROGRAM implementation.

i. OFFSITE DOSE CALCULATION MANUAL implementation.

j. Quality Assurance Program for effluent and environmental monitoring using the guidance in Regulatory Guide 1.21, Revision 1, June 1974 and Regulatory Guide 4.1, Revision 1, April 1975.

k. Pre-planned Alternate Sampling Program implementation.

l. Secondary water chemistry program

implementation.

m. Post-Accident Sampling System implementation.

n. Settlement Monitoring Program implementation.

o. CEA Reactivity Integrity Program implementation.

p. Fuel Assembly Surveillance Program Implementation."

Specifically, Technical Specification 6.8.2 states, in part, that:

"Each program or procedure of Specification 6.8.1, and changes thereto, shall be reviewed as specified in Specification 6.5 and approved prior to implementation. Programs, administrative control procedures and implementing procedures shall be approved by the Vice President-Nuclear Production, or designated alternate who is at supervisory level or above. Programs and procedures of Specification 6.8.1 shall be reviewed periodically as set for the in administrative procedures."

Specifically, Technical Specification 6.8.3 states, in part, that:

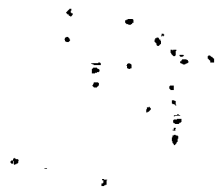
"Temporary changes to procedures of Specification 6.8.1 above may be made provided:

a. The intent of the original procedure is not altered.

b. The change is approved by two members of the plant supervisory staff, at least one of whom is a Shift Supervisor or Assistant Shift Supervisor with an SRO on the Affected unit.

c. The change is documented, reviewed in accordance with Specification 6.5.2 and approved by the cognizant department head, as designated by the Vice President-Nuclear Production, within 14 days of implementation."

Contrary to the above, during the period of October-December, 1991, Petitioner directly observed (a) the failure of maintenance personnel to follow procedures; (b) the failure of the licensee to ensure that safety-related and/or




quality related procedures were followed; and (c) that safety-related procedures were willfully falsified by maintenance personnel. See Department of Labor (DOL), case files (92-ERA-30), Saporito v. Arizona Public Service Company, and The Atlantic Group; See also, APS deposition of Saporito taken on July 23 & 24, 1992, concerning Case No. 92-ERA-30 and operations at the Palo Verde Nuclear Generating Station, Unit 2.

Conclusion:

Federal Regulations bounded within Title 10 of the Code of Federal Regulations require that the NRC initiate enforcement action as appropriate to insure that NRC licensee's provide reasonable assurance for the safe operation of nuclear facilities in the United States of America in the interests for the Health and Safety of the General Public.

The cooperation of the NRC in investigating the substance of this petition is both anticipated and appreciated. Should you or your staff require further information or discussion regarding the context of this petition, please feel free to contact me at the address and telephone number shown below.

Very truly yours,


Thomas J. Saporito, Jr.
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