

National Litigation Consultants

Nuclear Whistleblower Specialists

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March 30, 1998

Hon. Shirley Jackson, Chairman
U.S. Nuclear Regulatory Commission
White Flint Building
Washington, D.C. 20555

RE: PETITION UNDER 10 C.F.R. 2.206
REQUEST FOR AGENCY ACTION

Dear Chairman Jackson:

National Litigation Consultants ("NLC"), and its Executive Director, Thomas J. Saporito, Jr., (hereinafter "Petitioners") submit this petition under 10 C.F.R. 2.206 and in accordance with NRC regulations¹ found at Title 10 of the Code of Federal Regulations seeking certain and specific action by the U.S. Nuclear Regulatory Commission ("NRC") with respect to its licensee Florida Power & Light Company ("FPL") as described below:

Specific Request

1. that the NRC immediately issue an Order requiring its licensee FPL to contract an independent, third-party oversight of FPL's nuclear energy department's implementation of resolution of St. Lucie and Turkey Point employees' safety concerns; and
2. that the NRC's Order require the licensee' independent contractor to evaluate whether conditions exist at the licensee' nuclear facilities which requires acknowledgment and change in the attitude that

¹This provision is contained in Subpart B, Section 2.206 of the NRC's regulations.

allegations are necessary burden, and enhance sensitivity to the importance of the allegation process as a valuable tool for accomplishing the NRC's mission; and

3. that the NRC's Order require the licensee' independent contractor to evaluate whether FPL incorporates lessons into agency-wide allegation program training, counterpart meetings and seminars; and places emphasis on appreciation of the public visibility of the allegation process, and reinforces training with specific examples; and
4. that the NRC's Order require the licensee' independent contractor to evaluate whether FPL ensures NRC management recognition of the potentially significant insights to be gained from allegations, and the adverse impacts on agency resources and credibility with public if the licensee fails to react appropriately; and
5. that the NRC's Order require the licensee' independent contractor to evaluate whether the licensee avoids under-reaction to claims of discrimination; recognizes that the perception of discrimination can be just as significant and damaging as the reality of discrimination; recognizes that a chilling effect can spread rapidly within a licensee facility, with immediate negative impact; determine if the licensee treats all discrimination claims as potentially safety significant issues, not just those paired with apparently significant technical problems; and
6. that the NRC's Order require the licensee' independent contractor to evaluate whether the licensee has developed expert resources to help establish and monitor effective performance indicators for measuring licensee employee trust and confidence in management's ability to resolve employee concerns without fear of discrimination; to avoid the usual "employee concern" type survey vehicles which experience has shown that employees will not meaningfully respond to direct types of questioning; that more sophisticated methods may be needed to accurately measure the work place environment; and
7. that the NRC's Order require the licensee' independent contractor to evaluate whether the licensee and the NRC recognize the potential chilling effect created by NRC

enforcement that is publicly perceived as being soft on discrimination; and whether NRC enforcement action for discrimination violations errs on the side of increased severity level if senior management are involved or if the violation is repetitive; and

8. that the NRC's Order require the licensee' independent contractor to evaluate whether the licensee recognizes the potential chilling effect of inadequate licensee correction of discrimination problems, especially when a licensee has minimized or denied discrimination findings; whether the licensee provides timely follow-up to verify and validate licensee corrective actions for all discrimination claims and/or enforcement actions; whether the licensee ensures enhanced, periodic follow-up for minimized or denied discrimination claims or findings; and whether the licensee utilizes credible, independent resources to periodically assess the work environment for raising safety concerns; and whether the licensee periodically advises the NRC about the status of their programmatic oversight program for discrimination follow-up activities; and
9. that the NRC's Order require the licensee' independent contractor to evaluate whether the licensee appreciates employee unfamiliarity with NRC processes, and provides them more informative responses to help employees put their concerns into better perspective; whether the licensee responds to employee challenges of NRC conclusions with terse generalizations, or provides specific additional information to fully explain the basis for NRC determinations; whether the licensee provides timely explanations to employees about the NRC process for evaluating potentially generic safety concerns; helps employees to understand the relative safety significance of their concerns, and the basis for the timing and scope of NRC planned actions to address the concerns; and
10. that the NRC's Order require the licensee' to immediately bring all four of its nuclear units to cold shut down status until completion of this Order and until such time as the NRC determines that the overall work environment at the licensee's nuclear facilities encourages employees to raise safety concerns both internally and to the NRC with fear of discrimination or retaliation by FPL.

Basis and Justification for Request

Pursuant to Section 103, 161(i), 161(o) and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 C.F.R. 2.204 and 10 C.F.R. Part 50, the NRC has authority to take the actions requested above.

The NRC has a duty under 10 C.F.R. 50 mandated by the United States Congress to insure public health and safety by keeping channels of communication open to allow employees to freely and **CONFIDENTIALLY** contact the agency with safety concerns without fear of retaliation by the licensee. In keeping with its duty, the NRC is required to provide licensee employees with protection from retaliation for their engagement in protected activities.

In accordance with 10 C.F.R. 19.16 (1992), (The name of any worker who requests an inspection "shall not appear in [the] copy [of the request provided to the licensee] or on any record published, released or made available by the [NRC] . . . "). Therefore employees have a right to communicate confidentially with the NRC about their safety concerns.

Petitioner assert that the work environment and failures of licensee management are primary reasons for continuing employee concerns problems in the employee concerns program at the licensee's nuclear facilities; that the licensee does not maintain a comprehensive plan for handling safety concerns raised by employees and for assuring an environment free from retaliation and discrimination. See, Petitions filed by the undersigned in accordance with 10 C.F.R. 2.206 in 1997 and 1998 with respect to FPL.

Petitioners have provided the NRC with documents which evidence that over the last several years dissenting views were not tolerated or welcomed at FPL's nuclear facilities. This poor environment has resulted in repeated instances of discrimination and ineffective handling of employee concerns, and contributed to a significant decrease in the overall performance of FPL's St. Lucie Nuclear Station. Moreover, Petitions assert that FPL over the past several years has not been effective in its review and dispositioning of safety issues raised by its employees, and ensuring that employees who bring safety concerns to its management can do so without fear of retaliation.

Notably, the NRC's own process for handling allegations at FPL appears to be inadequate with respect to sensitivity and responsiveness; a lack of discrimination follow-up; unclear

enforcement; ineffective inspection techniques and performance measures, cumbersome NRC/Department of Labor interactions and ineffective implementation of an allegation program.

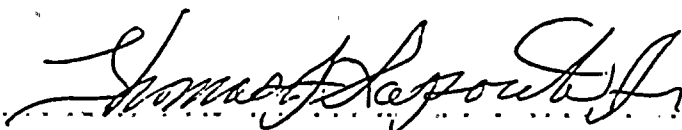
Furthermore, Petitioners assert that in general, an unhealthy and "hostile" work environment, which does not tolerate dissenting views, and does not welcome or promote a questioning attitude, has existed at FPL's nuclear facilities since 1988 and remains in force today. See, DOL Case Nos. 89-ERA-07/17. This poor environment has resulted in repeated instances of discrimination and ineffective handling of employee concerns. The vast majority of employee concerns and allegations that were submitted at FPL were met with discrimination by FPL. Petitioners assert that many cultural issues lie at the root of the licensee's problems; and contribute to a lack of respect and trust between employees and their management, and insufficient management sensitivity to routine employee concerns. Notably, Petitioners assert that the old "Turkey Point" culture of the 1980's exists at the St. Lucie nuclear station and has not been completely or effectively replaced by a culture encouraging the identification of problems and a questioning attitude, and attitudes impeding effective problem identification and resolution persist. Recent news articles about the FPL St. Lucie Nuclear Station depict an "arrogant" and defiant management style which further erodes FPL employee trust and confidence and which contributes to FPL's repeated failure to correct problems.

Significantly, the root causes of FPL's problems appear to entail an ineffective problem resolution and performance measures, insensitivity to employee needs, reluctance to admit mistakes, inappropriate management style and support for concerned employees, poor communications and teamwork, lack of accountability, and ineffective corrective actions by the licensee or even recognition that corrective actions are needed.

The NRC has authority under 10 C.F.R. 2.206 and 10 C.F.R. 2.202 to grant Petitioners a public hearing with respect to the issues delineated in this petition. Therefore, Petitioners hereby request a public hearing be convened by the NRC.

RESPECTFULLY SUBMITTED, this 30th day of March, 1998

NATIONAL LITIGATION CONSULTANTS



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Media

ACTION

EDO Principal Correspondence Control

FROM:

DUE: 05/14/98

EDO CONTROL: G980232

DOC DT: 04/04/98

FINAL REPLY:

Thomas J. Saporito, Jr.
National Litigation Consultants

TO:

Chairman Jackson

FOR SIGNATURE OF :

** GRN **

CRC NO: 98-0313

Collins, NRR

DESC:

ROUTING:

2.206 - ST. LUCIE NUCLEAR STATION, FLORIDA POWER
LIGHT COMPANY

Callan
Thadani
Thompson
Norry
Blaha
Burns
Cyr, OGC
Reyes, RII
Lieberman, OE
Goldberg, OGC
Gleaves, NRR

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CONTACT:

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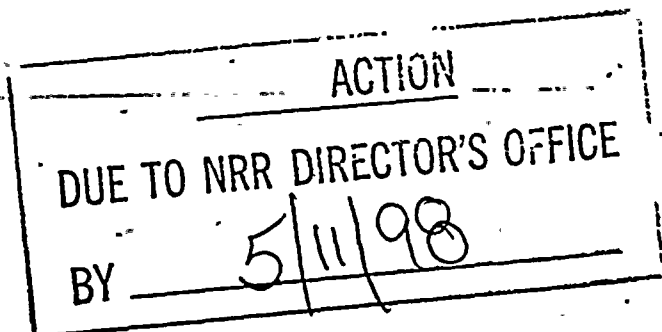
Collins

SPECIAL INSTRUCTIONS OR REMARKS:

Ref. G980124, G980125, G980138, G980203, and
G980204.

NRR ACTION: DRPE:Zwolinski
NRR RECEIVED: April 15, 1998

NRR ROUTING: Collins/Miraglia
Boger
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OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

PAPER NUMBER: CRC-98-0313

LOGGING DATE: Apr 9 98

ACTION OFFICE: EDO

AUTHOR: THOMAS SAPORITO
AFFILIATION: FLORIDA

ADDRESSEE: CHAIRMAN JACKSON

LETTER DATE: Apr 4 98. FILE CODE:

SUBJECT: PETITION UNDER 10 C.F.R. 2.206 REQUEST FOR
INVESTIGATION OF SAFETY CONCERNS TRACKING
REFERENCE: NLCO40498A

ACTION: Appropriate

DISTRIBUTION: CHAIRMAN

SPECIAL HANDLING:

CONSTITUENT:

NOTES: ALLEGATION MATERIAL --- OCM #12737

DATE DUE:

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AFFILIATION:

DATE SIGNED: