



Florida Power

CORPORATION
Crystal River Unit 3
Docket No. 50-302

May 22, 1991
3F0591-15

Mr. Stewart D. Ebnetter
Regional Administrator
U. S. Nuclear Regulatory Commission
101 Marietta Street, N. W.
Atlanta, GA 30323

Reference: 1) FPC to NRC letter dated 4/05/91
2) NRC to FPC letter dated 4/22/91

Dear Mr. Ebnetter:

Florida Power Corporation (FPC) has received the NRC's April 22, 1991 letter and the accompanying Notice of Violation (NOV) (EA 90-195). This letter transmits Florida Power Corporation's (FPC) response to the violation (attached).

At the outset, FPC wishes to make clear its firm commitment to the principles of the employee protection requirements of Section 210(a) of the Energy Reorganization Act and 10 CFR 50.7. This was FPC's first Section 210(a) case. As evidenced by our prior good compliance history in this area, FPC has tried to maintain an atmosphere at Crystal River 3 in which employees feel free to express concerns without fear of retaliation. Like the NRC, FPC believes that such a policy is in the best interest of plant safety.

FPC does not contest this violation. However, contrary to the NRC's assertion in the NOV, it is FPC's belief that the Director, Nuclear Plant Operations' (DNPO) refusal to allow the complainants to be badged for unescorted access to the plant in March, 1989 was not in retaliation for the complainants having engaged in protected activities. Rather, the DNPO's decision stemmed from his genuine concern at that time that the presence of these individuals on-site would constitute a security risk.

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Nevertheless, FPC agrees that the accompanying circumstances and the manner in which denial of access was carried out may have given the appearance of impropriety. FPC is concerned with the appearance of impropriety and the possible chilling effect it could have. Thus, FPC is taking strong action to assure that such a situation does not occur again.

Sincerely,



P. M. Beard, Jr.
Senior Vice President
Nuclear Operations

WLR:mag

Atts.

xc: NRR Regional Administrator
NRC Document Control Desk
Senior Resident Inspector

FLORIDA POWER CORPORATION
NRC NOTICE OF VIOLATION EA 90-195
REPLY TO NOTICE OF VIOLATION

VIOLATION

During a Nuclear Regulatory Commission (NRC) investigation completed on October 31, 1990, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C (1989), the violation is listed below:

10 CFR 50.7, "Employee Protection", prohibits discrimination by a Commission licensee against an employee of engaging in protected activities established by Section 210(a) of the Energy Reorganization Act (ERA) of 1974, as amended. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, and privileges of employment. Protected activities are related to the administration or enforcement of requirements imposed by the Atomic Energy Act (AEA) of 1954, as amended, or by the ERA and include, but are not limited to, providing the NRC with information about possible violations of the ERA or the AEA.

Contrary to the above, in March 1989, Messrs. Floyd and Larry Simmons, former employees of Fluor Constructors (a licensee contractor), were unlawfully discriminated against by Florida Power Corporation in that they were denied plant access authorization for the purpose of reemployment at Crystal River Unit 3, in retaliation for having engaged in certain protected activities. Those activities included: (1) filing and prosecuting complaints before the United States Department of Labor, pursuant to Section 210(a) of the Energy Reorganization Act, alleging discriminatory discharge for raising safety concerns about working without respirators; (2) reporting possible violations of NRC safety requirements to the NRC on April 8, 1988; and (3) choosing an attorney to represent them in the pursuit of their DOL complaint, an attorney known to advocate the shutting down of Crystal River Unit 3.

This is a Severity Level III violation (Supplement VII).

FLORIDA POWER CORPORATION RESPONSE

REASON FOR THE VIOLATION

The reason for this violation was a failure to direct an appropriate background investigation into the suitability of the individuals for access authorization.

Corrective Actions

FPC has conducted indoctrination sessions for all supervisors and managers at Crystal River Unit 3 regarding the requirements of Section 210(a) and 10 CFR 50.7. This is designed to sensitize all such personnel to these statutory and regulatory requirements and to provide guidance on adherence to these requirements.

Date of Full Compliance

It is FPC's position that it is currently in compliance with Section 210(a) of the Energy Reorganization Act (ERA) and with the NRC's employee protection requirements of 10 CFR 50.7.

Actions Taken to Prevent Recurrence

1. FPC has instituted an employee concerns program through adoption of a revised policy directive entitled, "Identification of Nuclear Safety Concerns and Employee Protection from Discrimination for Engaging in Certain Protected Activities" (NOD-36, Revision 2), issued May 22, 1991 and a new Quality Assurance Procedure (QAP) to implement this program will be issued by May 31, 1991. The purposes of this policy directive and implementing procedure are: (1) to emphasize that employees are free to express concerns and have them properly documented and addressed; and (2) to call attention to the prohibitions of 10 CFR 50.7 and Section 210(a) of the ERA. The new procedure provides that the Senior Vice President, Nuclear Operations, is responsible for a Nuclear Safety Concern Program designed to solicit, document, and disposition concerns on a nondiscriminatory basis.

The procedure designates a Nuclear Safety Concerns representative to serve as a focal point for receiving employee concerns. The concerns are to be reported on a Record of Nuclear Safety Concerns, which may be submitted on a confidential basis or anonymously if the employee so chooses. Disposition of concerns may be appealed up to the Senior Vice President, Nuclear Operations.

2. FPC has implemented a training program for supervisors and managers on the requirements of Section 210(a) and 10 CFR 50.7.
3. Concerning contractors performing work for FPC, we have revised our contract provisions to include requirements for compliance with Section 210(a) of the ERA and 10 CFR 50.7 activities. The provisions delineate the requirements for ensuring contract employee protection against retaliation by a contractor for protective activities.

FPC anticipates further development and refining of both the employee concerns program and the supervisors training program with the benefit of outside consultants experienced in this field.

FPC believes that these actions will help to assure that FPC's existing good record of compliance with the employee protection requirements of Section 210(a) and 10 CFR 50.7 will continue.