

**THOMAS J. SAPORITO, JR.**

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February 01, 1994

Executive Director for Operations  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

**Re: Petition Filed Under 10 C.F.R. Part 2.206**

Dear Sir:

COMES NOW, Thomas J. Saporito, Jr., ("Petitioner") pro se, in accordance with 10 C.F.R. Part 2.206 and hereby files his request for specific action by the U.S. Nuclear Regulatory Commission ("NRC") within a reasonable time directed towards the Arizona Public Service Company (hereinafter "Licensee") and operator of the Palo Verde Nuclear Generating Station located near Phoenix, Arizona.

**Specific Request:**

- A. Petitioner requests that the NRC institute a show cause proceeding pursuant to 10 C.F.R. Part 2.202 to modify, suspend, or revoke the licensee's permissive NRC operational licenses authorizing the operation of the Palo Verde Nuclear Generating Station.
- B. Petitioner requests that the NRC initiate appropriate actions to cause the licensee to recognize the Buckeye, Arizona Regional Office of the National Whistleblower Center as an agency which employees of the licensee may identify safety concerns about operations at the Palo Verde Nuclear Generating Station without fear of retaliation by the licensee.
- C. Petitioner requests that the NRC initiate appropriate actions to cause the licensee to encourage employees at the Palo Verde Nuclear Generating Station to contact the Buckeye, Arizona Regional Office of the National Whistleblower Center to identify safety concerns about operations at the Palo Verde Nuclear Generating Station as part of the licensee's procedural requirements to ensure a working environment the licensee's facility

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which is free of hostility and which promotes the raising of safety concerns by licensee employees without fear of retaliation.

- D. Petitioner requests that the NRC initiate appropriate actions to cause the licensee to encourage employees at the Palo Verde Nuclear Generating Station to contact the NRC to identify safety concerns about operations at the Palo Verde Nuclear Generating Station as part of the licensee's procedural requirements to ensure a working environment at the licensee's facility which is free of hostility and which promotes the raising of safety concerns by licensee employees without fear of retaliation.

**Basis and Justification:**

1. The NRC has identified the Palo Verde Nuclear Generating Station as the second highest source of whistleblower complaints in the nation. Seventy two of the 621 harassment and intimidation allegations that the NRC received between October of 1988 and April of 1993 were received by the NRC from Palo Verde employees.
2. The licensee's spokesman for the Palo Verde facility made public comments to the *West Valley View* newspaper which increase the existing "chilling effect" at the facility by **discouraging** employees at Palo Verde from utilizing the Buckeye, Arizona Regional Office of the National Whistleblower Center as an agency for which the employees may identify safety concerns about operations at Palo Verde without fear of retaliation by the licensee.

Specifically, licensee spokesman, Mark Fallon, told the West Valley View newspaper that newly revised APS guidelines designed to protect whistleblowers should leave the staff of the Buckeye center with little to do. See, copy of West Valley View news article dated January 26, 1994.

Moreover, Fallon was quoted as stating that:

"We're going to encourage people to bring forward safety concerns, and would hope that they would use their supervisory chain, their management team, or even the on-site independent organizations like the Employee Concerns Department, to resolve

those issues before they feel the need to go to such an organization."

The licensee's public comments appear to chastise the National Whistleblower Center by placing the agency in a "**bad light**" and by not encouraging Palo Verde employees to utilize the agency as a vehicle to express safety concerns. The licensee's public comments "**chill**" the work force by their implicate meaning characterizing licensee employees in an adverse manner should they decide to bypass the licensee's chain of command and utilize an outside agency such as the National Whistleblower Center.

3. The licensee's spokesman for the Palo Verde facility made public comments in the *West Valley View* newspaper which increase the existing "**chilling effect**" at the facility by **discouraging** employees at Palo Verde from utilizing the NRC as an agency for which the employees may identify safety concerns about operations at Palo Verde without fear of retaliation by the licensee.

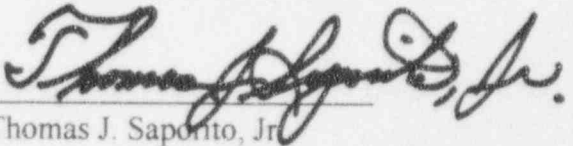
The public comments by licensee spokesman, Mark Fallon, as described in item No. 2 above clearly discourage employees from contacting the NRC. The licensee's public comments never identify the NRC as an agency for employees to contact to complain about operations at the Palo Verde station. Instead, the licensee desires the employees to keep all safety concerns within the management chain of APS. These comments by their own nature, "**chill**" the workforce by discouraging employees from contacting the NRC to identify safety concerns.

WHEREFORE, the above stated reasons, the licensee cannot demonstrate to the NRC reasonable assurance for the continued safe operation of the Palo Verde Nuclear Generating Station. Accordingly, it is appropriate for the NRC to consider this Petition under 10 C.F.R. Part 2.206 wherein the petitioner has set forth the fact that constitute the basis for the request. See, Philadelphia Electric Company (Limerick Generating Station, Units 1 & 2), DD 85-11, 22 NRC 14<sup>c</sup>, 154 (1985).

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The cooperation of the NRC is complying with this request in a timely manner is both anticipated and appreciated in the interest for public health and safety.

For the environment,  
Petitioner **pro se**

  
Thomas J. Saporito, Jr.

cc: Ken Perkins, Administrator  
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# Whistleblower targets contractor

## Having reached settlement with APS, Saporito now goes after The Atlantic Group

by Dan Nowicki  
staff writer

Nuclear "whistleblower" Thomas Saporito Jr., having reached a settlement with Arizona Public Service Co., is now setting his sights on the contractor firm that sent him to the Palo Verde Nuclear Generating Station.

Saporito was employed by The Atlantic Group Inc. of Norfolk, Va., when he worked as an instrument and control technician at Palo Verde's Unit 2 during a 1991 outage.

Saporito alleged that he was illegally denied work during a subsequent Unit 1 outage because of his reputation as a whistleblower at Palo Verde and other plants.

An amendment to the federal Energy Reorganization Act of 1974 protects nuclear industry workers from reprisals or retribution from plant management.

Saporito filed a U.S. Department of Labor complaint against both APS, Palo Verde's operating utility, and TAG. In May 1993, Labor Department

administrative law judge supported the whistleblower's claims against the Arizona utility, but not against the contractor.

Saporito now says TAG has unlawfully blacklisted him. He filed a new Labor Department complaint against the organization last October.

"The litigation is settled between myself and APS," said Saporito, who now lives in Jupiter, Fla.

"There has been no settlement with The Atlantic Group, and they have failed to re-employ me anywhere at any of their clients' facilities, whether nuclear or non-nuclear."

### Blacklisting difficult to prove

Saporito and the National Whistleblower Center, of Washington, D.C., announced last week that a petition requesting enforcement action against TAG has been filed with the director of the U.S. Nuclear Regulatory Commission's Office of Nuclear Reactor Regulation.

"We want the NRC to sanction any nuclear facility that contracts with The Atlantic Group because The Atlantic Group discriminates in violation of the Energy Reorganization Act," Saporito said.

"We're also asking them to look at The Atlantic Group's employees to investigate whether or not they were completely truthful when they testified under oath at my [Labor Department] trial."

The actions of some members of the defense at Saporito's Labor Department proceeding, which was held in Phoenix in the fall of 1992, are already expected to have some serious reverberations.

APS revealed last August that at least one of its key witnesses had lied under oath and that lawyers representing the utility tried to suppress the production of documents critical to Saporito's retaliation case.

The developments have sparked an ongoing probe by the NRC's Office of Investigations that a press release by the National Whistleblower Center calls "one

of the most intensive investigations into wrongdoing by a nuclear utility" ever conducted by the agency.

The center's statement, which was issued last Wednesday to coincide with the official announcement of Saporito's settlement with APS, also says NRC investigators have interviewed more than 20 witnesses, "including the highest ranking APS management officials." The main issue seems to be whether the discrimination against Saporito was limited to the two middle-management figures already implicated, or if higher-ranking executives were also involved.

The Labor Department administrative law judge has also referred the perjury charges to the U.S. Department of Justice for possible prosecution.

David Colapinto, the whistleblower center attorney representing Saporito, said he is unaware of any previous NRC action taken against a contractor for blacklisting.

"One of the reasons that we're so concerned about it is because blacklisting is pretty widespread, and the NRC focus has been on the utilities," Colapinto said. "Often these people are as bad as the utilities in retaliating against people and blacklisting people."

Blacklisting has historically been one of the most difficult charges to prove before the Department of Labor, he added.

### Saporito's settlement with APS being kept confidential

Greg Cook, spokesman for the NRC's Region V in Walnut Creek, Calif., said charges of blacklisting are not new.

"We have looked into that sort of issue in cases other than [Saporito's]. I'm not saying that we haven't looked into it in that particular case. I'm just going to stay neutral on that point," Cook said.

"Our basic position is that it's the licensee's responsibility to ensure that their contractors do not harass or intimidate employees who are bringing concerns forward, just as we hold the licensee responsible for the quality of a

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## PVNGS whistleblowers hired by advocacy group

The National Whistleblower Center has announced that it will open regional offices in Arizona and Florida, both of which will be headed by "whistleblowers" associated with the Palo Verde Nuclear Generating Station.

The non-profit organization, based in Washington, D.C., provides legal help and referrals to whistleblowers across the country.

The Arizona office will be located in Buckeye, just east of Palo Verde, and will be directed by Linda and Allan Mitchell.

The Florida chapter, which will be located between Florida Power & Light Co.'s Turkey Point and St. Lucie nuclear power plants, will be administered by Thomas Saporito Jr.

Both Linda Mitchell and Saporito have won U.S. Department of Labor administrative law judge rulings against Arizona Public Service Co., Palo Verde's managing utility. Both claimed that they were harassed and intimidated by plant staff for reporting safety-related problems.

Nuclear industry employees who voice such concerns are protected from management retaliation by an amendment to the federal Energy Reorganization Act of 1974.

The West Valley View reported Jan. 12 that Saporito, a contract worker, had reached a settlement with APS.

Linda Mitchell, a plant engineer, settled with APS in January 1993 and quit her job at Palo Verde.

Dave Colapinto, the attorney with the National Whistleblower Center who represented both Mitchell and Saporito, said the staffs at the regional offices will be modest.

"There will be no lawyers. It will be

whistleblowers giving advice to other whistleblowers and being able to share resources and other information about how to protect one's self," Colapinto said.

The regional offices will be able to tap into the center's nationwide Attorney Referral Service.

Colapinto said the Mitchells and Saporito will be operating the offices as volunteers, at least at first.

"I don't know how we ever made it through everything we did, but we did, and we're doing this because we feel that we should help other people," Linda Mitchell said.

The U.S. Nuclear Regulatory Commission has said Palo Verde is the second-highest source of whistleblower complaints in the nation. Seventy-two of the 621 harassment and intimidation allegations that the NRC received between October 1988 and April 1993 were from workers at the West Valley plant.

Palo Verde spokesman Steve Patton said newly revised APS guidelines designed to protect whistleblowers should leave the staff of the Whistleblower Center with little to do.

"We're going to encourage people to bring forward safety concerns, and we'll help them if they need our help," Patton said.

Colapinto said he expects these issues to be resolved, but he said he would not be surprised if the NRC continued to receive complaints.

Palo Verde is a triple-reactor nuclear power facility located in Wintersburg. The plant employs 2,800 people, and generates electricity for approximately 4 million customers in Arizona, California, New Mexico and Texas.

# A14 Whistleblower

View, Avondale, Arizona, January 26, 1994

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contractor's work in safety-related system," Cook said. "We also hold the licensee responsible for ensuring that the atmosphere at the facility encourages the raising of safety concerns, and the atmosphere is for the contractor's employees as well as the licensee's employees."

When asked about the specific comments made by the National Whistleblower Center regarding the NRC investigation into the Saporito case, Cook said: "I'm not going to get into the details of what we're doing in this specific investigation. I can't. The investigation is continuing, but that's all I can say."

TAG officials also declined to talk about Saporito's petition to the NRC.

"I don't have any comment. That's being handled

strictly through the usual channels," Mel Miller, TAG's vice president for marketing services. He would not elaborate.

The terms of Saporito's settlement with APS have been kept confidential, but a Palo Verde spokesman told the **West Valley View** earlier this month that "certain compensation" will be paid to the whistleblower.

"The parties have amicably resolved their differences. Mr. Saporito has agreed to forego any efforts to seek employment with Arizona Public Service Co.," plant spokesman Mark Fallon said.

Palo Verde, with three reactors, is the largest commercial nuclear power facility in the United States. The plant employs 2,800 workers.