

District's supplement to its Petition, dated October 13, 1994, and Inspection Report

No. 030-16055/94003, issued on December 6, 1994. The presence of the cobalt-60 appears to be a result of plate-out of cobalt-60 onto the walls of the piping leading from the London Road facility. The staff had characterized the results of its sampling as indicating an apparent violation of 10 CFR § 20.2003. *Id.*

The sampling performed by the District and subsequent sampling performed by the staff in early 1995 indicated that some or all the cobalt-60 detected might be "soluble," as that term is defined in NRC Information Notice No. 94-07, dated January 28, 1994. The uncertainty as to the solubility of the cobalt-60 prompted the staff to begin preparations for a solubility analysis of the sample taken on August 17, 1994. In accordance with Region III policy, those samples had been transferred back to the District, on whose property the samples had been taken. Because of further analyses the District had performed on the samples, the samples no longer existed in their original form; therefore further solubility analyses could not be performed. Further representative samples of the water at this point in the waste stream could not be taken because of the District's plugging of the pipe. In view of the inability of the staff to determine that the cobalt-60 in the sampled water was, in fact, insoluble, there was an insufficient basis to cite AMS for a violation of 10 CFR § 20.2003. Furthermore, there is not now a significant potential for discharge of cobalt-60 from the London Road facility to the District's system because: (1) old piping connecting the facility to the District's lines has been plugged; (2) the District has not permitted AMS to connect new clean piping installed by AMS to the District's lines; and (3) AMS collects and treats all water used on the site and holds it in tanks before it is determined not to contain insoluble cobalt-60.

The staff believes that the vast majority of cobalt-60 inventory and activity discharged into the District's sanitary sewerage system was dispersible. It can be expected that a small amount of readily dispersible material would plate-out onto the sewer system pipes over the long history of cobalt-60 discharges by Picker and AMS. Staff concludes that the fact that a small amount of cobalt-60 built up over time in sewer pipes leading from the AMS facility, by itself, does not support the District's assertion that a

discharge in violation of 10 CFR § 20.303 or 10 CFR § 20.2003 occurred.

#### *IV. Conclusion*

For the reasons discussed above, no basis exists for taking any action, in addition to the action described above, in response to the requests in the Petition and its supplements. Accordingly, no further action pursuant to 10 CFR § 2.206 is being taken in this matter.

As provided by 10 CFR § 2.206(c), a copy of this Decision will be filed with the Secretary of the Commission for the Commission's review. The Decision will become the final action of the Commission twenty-five (25) days after issuance unless the Commission on its own motion institutes review of the Decision within that time.

Dated at Rockville, Maryland, this 13th day of June, 1997.

For the Nuclear Regulatory Commission.

**Carl J. Paperiello,**

*Director Office of Nuclear Material Safety and Safeguards*

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#### **NUCLEAR REGULATORY COMMISSION**

[Docket Nos. 50-250, 50-251, 50-335, and 50-389, License Nos. DPR-31, DPR-41, DPR-67, and NPF-16]

#### **Florida Power & Light Company, Turkey Point, Units 3 and 4, and St. Lucie, Units 1 and 2; Receipt of Petition for Director's Decision Under 10 CFR 2.206**

Notice is hereby given that by Petition dated April 23, 1997, as supplemented May 11 and May 17, 1997, Thomas J. Saporito, Jr., on behalf of himself and the National Litigation Consultants (Petitioners) has requested, pursuant to Section 2.206 of Title 10 of the Code of Federal Regulations (10 CFR 2.206), that the U.S. Nuclear Regulatory Commission (Commission or NRC) take action with regard to operations at the Florida Power & Light Company's (FPL or licensee) Turkey Point Nuclear Station, Units 3 and 4, and St. Lucie Nuclear Station, Units 1 and 2.

The Petitioners request the Commission (1) modify, suspend, or revoke FPL's operating licenses for these facilities until FPL can sufficiently demonstrate that employees at the FPL nuclear facilities are exposed to a work environment that encourages employees to freely raise safety concerns directly to the NRC without being required to first identify safety concerns to the licensee; (2) take escalated enforcement action

because of discriminatory practices of the licensee in violation of 10 CFR 50.7 and/or other NRC regulations, and that the enforcement action be retroactive to the initial occurrence of the violation by the licensee; (3) conduct a public hearing through the Atomic Safety and Licensing Board and permit Petitioners leave to intervene to perfect an evidentiary record in consideration of whether the licensee has violated NRC requirements and/or regulations; (4) require the licensee to post a written notice alongside each NRC Form 3 currently posted at the licensee's nuclear facilities that alerts employees that they can directly contact the NRC about safety concerns without first identifying the safety concerns to the licensee; (5) require the licensee to provide a copy of the posted communications to all employees and insure that all employees are made aware of those communications through the licensee's General Employee Training Program; and (6) require the licensee to provide the NRC with written documents authorized by licensee officers under affirmation that the requirements described in items (4) and (5) have been fully complied with.

In the supplement of May 11, 1997, the imposition of a civil penalty in the amount of \$100,000 against each of three former FPL managers is requested and that the NRC refer the matter of the conduct of these managers to the Department of Justice for consideration of invoking criminal proceedings.

In the supplement of May 17, 1997, the Petitioners requested imposition of a civil penalty in the amount of \$100,000 against each of six FPL employees and restriction of these employees' licensed activities and revocation of their unescorted access to nuclear facilities; the imposition of a civil penalty in the amount of \$100,000 against the International Brotherhood of Electrical Workers (IBEW), that the IBEW be required to inform its members that they have a right to report safety concerns directly to the NRC, and that the IBEW encourages such action at the discretion of its members; and the imposition of a civil penalty in the amount of \$100,000 against two agents or representatives of the licensee. The Petitioners also requested investigations of "willful falsification" of a company record and the cause of "transcripts found missing" in a Department of Labor (DOL) proceeding, and the referral of the matter of the conduct of the eight individuals and entities to the Department of Justice for consideration of invoking criminal proceedings. Finally, it was requested that the NRC conduct an interview with the

Petitioners regarding the substance of their 2.206 Petition.

As grounds for this request, the Petitioners assert that the NRC's failure to take enforcement action against the licensee on the basis of the Secretary of Labor's finding in case 89-ERA-07/17 that FPL violated the Energy Reorganization Act when it discharged an employee for raising safety concerns has resulted in a "chilling effect" at FPL and continued discrimination against employees by FPL in violation of 10 CFR 50.7. In addition, in the Petitioners' May 11, 1997, supplement to their Petition, they assert that the employee's "Damages Brief" in the Department of Labor proceeding establishes that the licensee and its managers are liable for creating a hostile work environment at Turkey Point and have failed to stop harassment and discrimination against the employee. The Petitioners further assert that the record in this case contains evidence showing direct participation of the employee's chain of command in the retaliatory actions taken against the employee. In the supplement to the Petition of May 17, 1997, the Petitioners assert that certain pleadings and transcripts in this DOL proceeding set out a chronology of events surrounding missing record transcripts and the falsification of a licensee company business record. They further assert that there exists additional evidence necessitating a meeting between the NRC and Petitioners.

The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by Section 2.206, appropriate action will be taken on this Petition within a reasonable time. A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, D.C. 20555-0001.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 14th day of June 1997.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-219]

### GPU Nuclear Corporation; Oyster Creek Nuclear Generating Station; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission (NRC), has dismissed as premature a Petition dated April 1, 1997, submitted as a resolution passed by Berkeley Township Environmental Commission (Petitioners) opposing an upcoming planned transfer of spent nuclear fuel from wet to dry storage during operation of Oyster Creek Nuclear Generating Station (OCNGS). Petitioners requested that NRC direct GPU Nuclear (GPU) to shut down the nuclear reactor at OCNGS during the aforementioned fuel transfer.

Specifically, the Petitioners asserted that (1) the load transfer path for the 100-ton fuel transfer casks passes over the reactor's containment mechanism and other safety-related equipment; (2) NRC Bulletin 96-02, dated April 11, 1996, states that a dropped cask could damage the isolation condensers and the torus, creating the possibility of an unisolable leak, which in industry jargon describes a situation perilously close to a nuclear meltdown; (3) the operating record of GPU demonstrates it is capable of human error, including dropping heavy loads; (4) Berkeley Township could not be successfully evacuated in the event of a serious nuclear accident at OCNGS; and (5) the safer, simpler alternative of turning off the reactor while lifting 100-ton loads over the containment can be easily implemented.

The Director of the Office of Nuclear Reactor Regulation has determined that the request should be dismissed as premature for the reasons stated in the "Director's Decision Under 10 CFR 2.206 (DD-97-14), the complete text of which follows this notice. The decision and the documents cited in the decision are available for public inspection and copying at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC, and at the local public document room located at Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey.

A copy of this Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c). As provided by that regulation, the decision will constitute the final

action of the Commission 25 days after the date of its issuance, unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland this 16th day of June 1997.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

### Director's Decision Under 10 CFR 2.206

#### I. Introduction

By a Petition submitted pursuant to 10 CFR 2.206 and dated April 1, 1997 (Petition), Berkeley Township Environmental Commission (Petitioners) requested that the U.S. Nuclear Regulatory Commission (NRC) take action with regard to Oyster Creek Nuclear Generating Station (OCNGS) operated by GPU Nuclear Corporation (GPU or licensee). The Petitioners requested that the NRC direct the licensee to shut down OCNGS during an upcoming planned transfer of fuel from wet to dry storage.

The Petitioners based their request on the following assertions: (1) The load transfer path for the 100-ton fuel transfer casks passes over the reactor's containment mechanism and other safety-related equipment; (2) NRC Bulletin 96-02, dated April 11, 1996, states that a dropped cask could damage both isolation condensers and the torus, creating the possibility of an unisolable leak, which in industry jargon describes a situation perilously close to a nuclear meltdown; (3) the operating record of GPU demonstrates it is capable of human error, including dropping heavy loads; (4) Berkeley Township could not be successfully evacuated in the event of a serious nuclear accident at OCNGS; and (5) the safer, simpler alternative of turning off the reactor while lifting 100-ton loads over the containment can be easily implemented.

For the reasons stated below, I have dismissed the Petitioners' request as premature.

#### II. Discussion

The Petitioners have requested that the NRC take action against the licensee on a matter involving the potential transfer of spent fuel during plant operation. However, this is an activity for which the licensee has not yet requested authorization from the Commission. At a public meeting on February 29, 1996, the NRC informed GPU that it would have to obtain a license amendment to move fuel from wet to dry storage, using the facility's existing crane, while the reactor is