

September 18, 2000

EA-00-165

Mr. Michael A. Balduzzi
Vice President, Operations
Vermont Yankee Nuclear Power Corporation
185 Old Ferry Road
Brattleboro, Vermont 05302-7002

SUBJECT: NOTICE OF VIOLATION
(Office of Investigations Case 1-1999-027)

Dear Mr. Balduzzi:

This letter refers to an investigation conducted at the Vermont Yankee Nuclear Power Plant by the NRC Office of Investigations (OI), to determine whether a manager deliberately failed to comply with Vermont Yankee (VY) procedural requirements concerning the control of contract valve technicians during the 1998 refueling outage. Based on the investigation, OI found that the former Mechanical Maintenance Manager deliberately caused a violation of the VY procedure implementing the requirement to control contracted services during the 1998 refueling outage. In an NRC letter dated August 8, 2000, the NRC provided you a factual summary of the OI investigation, including a basis for the finding, and indicated that an apparent violation of 10 CFR 50, Appendix B, Criterion VII, "Control of Purchased Equipment, Materials and Services" was identified and being considered for enforcement action.

On August 25, 2000, a predecisional enforcement conference was conducted in the Region I Office to discuss the apparent violation, including its apparent deliberate nature, its significance, root causes, and your corrective actions. At the conference, you agreed that a violation occurred, but did not agree that it was deliberate. In support of your contention, you indicated that (1) the manager, who was in attendance at the conference, firmly denied that he had told anyone that the purchase order had been changed to allow the contractors to work unsupervised; (2) the day-shift supervisor, when interviewed by your attorneys, stated that the manager did not tell him that the purchase order had been changed to safety-related, and (3) it was the manager, himself, who had initiated an adverse trend event report on valve work deficiencies that were being identified. You reiterated these points in a subsequent written submittal dated September 11, 2000, wherein you provided affidavits of the manager, day-shift supervisor, and night-shift supervisor.

Notwithstanding your contention, the NRC maintains that the violation was deliberate. In support of this conclusion, the NRC notes that the day-shift supervisor, during his sworn testimony to OI, clearly indicated that the manager had told him that the purchase order had changed. The day-shift supervisor stated, "I asked him [manager] and he said that the purchase order was now safety class." Although the manager, during the conference, denied having made such a statement, the manager was much less definitive, and in fact, inconsistent,

when previously interviewed by OI. For example, when the manager was presented, during his OI interview, with the day-shift supervisor's testimony, the manager stated, "..... I don't recall saying that. If I did, I made a mistake and miscommunicated....." When the investigator reminded the manager that he was under oath, the manager stated, "I'll say I don't recall telling him that, because I had no reason to tell him that. That wouldn't have made any sense." When asked if he could out-and-out deny saying that, he replied, "I can't out-and-out say that." Furthermore, other members of your staff, including the night-shift supervisor, believed that the purchase order had been changed. While the NRC acknowledges that the manager ultimately wrote an adverse trend event report describing valve work deficiencies, the initiation of that report by the manager does not refute the fact that his initial actions led staff to believe that the purchase order had changed, when, in fact, he knew that it had not.

As a result of this deliberate violation, contract valve technicians performed unsupervised work on a safety-related valve in the reactor core isolation cooling (RCIC) system, and during that time, these contractors failed to properly chamfer the wedge seat and body guides of RCIC motor operated valve (MOV) 13-20. Chamfering MOV 13-20 was necessary as part of an assumption used to determine the minimum thrust required for closing the valve against maximum differential pressure. Since the valve was not chamfered, it was not possible to accurately predict the performance of the valve. A non-cited violation was issued on February 29, 2000, for failing to follow the maintenance procedure.

The NRC recognizes that the lack of chamfering would not have prevented the valve from performing its design function because the valve had a motor operator with considerable thrust margin. The NRC also recognizes that the inadequate chamfer was later identified by your staff and corrected prior to the valve's return to service. Nonetheless, the performance of the unsupervised work based on the deliberate actions of the manager constitutes an additional violation and is described in the enclosed Notice of Violation (Notice). The violation, absent deliberateness, would be considered green if assessed by the Significance Determination Process. However, because it was deliberate, it has been categorized in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, at Severity Level III.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$55,000 is considered for a Severity Level III violation. Because a deliberate Severity Level III violation occurred, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. In this case, the inadequate chamfer was identified and corrected by your staff prior to the return to service of the valve. Your staff also initiated an adverse trend event report and performed a root cause analysis, which concluded that supervisory oversight and work control were inadequate for a non-nuclear safety-related contractor performing work on safety-related equipment. Therefore, the NRC has determined that credit is warranted for identification. In addition, prompt and comprehensive corrective actions were taken, including but not limited to: (1) revising the contractor control procedure; 2) providing extensive, improved training and subsequent examination of contractors; 3) revising the maintenance procedure for performing valve work; and 4) improving oversight of this area through self-assessments, supervisory observations and Quality Assurance surveillances. Therefore, the NRC has determined that credit is warranted for your corrective actions.

Therefore, to encourage prompt identification and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

The NRC has concluded that the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved were already adequately addressed during the predecisional enforcement conference on August 25, 2000, and in your submittal dated September 11, 2000. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosures, and your response will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Reading Room). To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the Public Document Room without redaction.

Sincerely,

IRAI James T. Wiggins for:

Hubert J. Miller
Regional Administrator

Docket No. 50-271
License No. DPR-28

Enclosure: Notice of Violation

Mr. Michael A. Balduzzi

4

cc w/encl:

R. McCullough, Operating Experience Coordinator - Vermont Yankee

G. Sen, Licensing Manager, Vermont Yankee Nuclear Power Corporation

J. A. Hutton, Director-Licensing, AmerGen Energy Coompany

D. Rapaport, Director, Vermont Public Interest Research Group, Inc.

D. Tefft, Administrator, Bureau of Radiological Health, State of New Hampshire

Chief, Safety Unit, Office of the Attorney General, Commonwealth of Massachusetts

D. Lewis, Esquire

G. Bisbee, Esquire

J. Block, Esquire

T. Rapone, Massachusetts Executive Office of Public Safety

D. Katz, Citizens Awareness Network (CAN)

M. Daley, New England Coalition on Nuclear Pollution, Inc. (NECNP)

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State of Vermont, SLO Designee

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NOTICE OF VIOLATION

Vermont Yankee Nuclear Power Corporation
Vermont Yankee

Docket No. 50-271
License No. DPR-28
EA-00-165

During an investigation conducted by the NRC Office of Investigations, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 50, Appendix B, Criterion VII, "Control of Purchased Material, Equipment, and Services," requires that measures shall be established to assure that purchased services, whether purchased directly or through contractors, shall conform to the procurement documents. The effectiveness of the control of quality by contractors shall be assessed by the applicant or designee at intervals consistent with the importance, complexity, and quantity of the services.

Vermont Yankee Nuclear Power Corporation administrative procedure AP-0847, "Control of Contracted Services," Appendix D, Section D.8 (a measure established to assure compliance with Criterion VII), requires that services performed by contractors procured under non-nuclear safety-related (NNS) purchase orders be supervised by plant staff members who are qualified by experience and/or training to judge the technical adequacy and quality of the work.

Contrary to the above, during a refueling outage on April 14 and 19, 1998, contract valve technicians procured under NNS purchase order VY-98-58550-00 dated April 7, 1998, performed work on reactor core isolation cooling valve 13-20, and at the time, those technicians were not adequately supervised by qualified plant staff members. The supervision was inadequate in that the technical adequacy and quality of the contract valve technicians' work was not ensured prior to reassembling the valve.

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

The NRC has concluded that the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved was already adequately addressed during the predecisional enforcement conference on August 25, 2000, and in your submittal dated September 11, 2000. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region I, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because your response will be made available to the Public, to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 18th day of September 2000