

December 20, 2002

Mr. Harold W. Keiser
Chief Nuclear Officer and President
PSEG Nuclear LLC-X04
Post Office Box 236
Hancocks Bridge, NJ 08038

SUBJECT: NOTICE OF ENFORCEMENT DISCRETION FOR PSEG NUCLEAR, LLC,
REGARDING HOPE CREEK GENERATING STATION, NOED NO. 02-6-002

Dear Mr. Keiser:

In your December 17, 2002, letter (Enclosure 1), PSEG Nuclear LLC (PSEG or the licensee) requested that the Nuclear Regulatory Commission (NRC) exercise discretion not to enforce compliance with a surveillance condition required in Technical Specification (TS) 4.8.1.1.2.h.14 for the Hope Creek Generating Station (Hope Creek). Your letter documented information previously discussed with the NRC in a telephone conference on December 13, 2002. The principal NRC staff members who participated in that telephone conference are listed in Enclosure 2.

On December 11, 2002, an NRC safety system design inspection (SSDI) team questioned the scope of testing performed on Emergency Diesel Generator (EDG) output breaker lockout relays in accordance with TS 4.8.1.1.2.h.14. This TS, in part, required each EDG to be demonstrated OPERABLE “[a]t least once per 18 months during shutdown, by . . .

14. Verifying that the following diesel generator lockout features prevent diesel generator starting only when required:
 - a) Engine overspeed, generator differential, and low lube oil pressure (regular lockout relay, (1) 86R).
 - b) Backup generator differential and generator overcurrent (backup lockout relay, (1) 86B).
 - c) Generator ground and lockout relays - regular, backup and test, energized (breaker failure lockout relay, (1) 86F)”.

On December 12, 2002, at 1:07 p.m., PSEG declared all four EDGs inoperable due to a failure to fully comply with TS Surveillance Requirement 4.8.1.1.2.h.14.a. PSEG then invoked TS 4.0.3 which permitted 24 hours to complete the required surveillance activities.

During the morning of December 13, the SSDI team further identified that the licensee had not performed the testing of all the lockout features required by TS 4.8.1.1.2.h.14.b and c. The NRC also questioned the licensee regarding how it complied with the TS requirement to perform the surveillance testing “during shutdown”.

In a subsequent phone call, PSEG requested that a Notice of Enforcement Discretion (NOED) be granted to allow PSEG to meet the surveillance testing requirements when conducting the EDG surveillance testing at power vice during shutdown conditions. This request was made pursuant to the NRC's policy regarding exercise of discretion for an operating facility, set out in Section VII.c. of the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600. The licensee requested that the NOED be effective for the period until the NRC issues approval of its proposed amendment, submitted December 17, 2002, to allow a one-time change to TS 4.8.1.1.2.h.14 permitting the surveillance to be completed during power operations. During the phone call, the licensee stated that it had completed the testing on three of the four EDGs, and would complete the final EDG within the time allowed by the TS. During the call, the NRC agreed that completing the remaining tests required by TS 4.8.1.1.2.h.14 could be done, without NRC approval, with the unit operating vice shutdown. However, a NOED was needed only to satisfy the issue of noncompliance with the requirement to conduct the surveillance "during shutdown". This letter documents our telephone conversation on December 13, 2002, when we orally issued this NOED at approximately 3:30 p.m.

The staff has reviewed the information provided by the licensee during both the conference call and the subsequent written NOED request, dated December 17, 2002. PSEG stated in its submittal that it had performed the required surveillance during power operations to demonstrate that the inputs to the lockout relays would function properly. The licensee stated that the purpose of the NOED was to allow credit to be taken for testing performed during power operation to meet a portion of the EDG testing that is required by the TS to be performed during shutdown. The licensee requested the NOED because verbatim compliance with TS 4.8.1.1.2.h.14 would have required the testing to be conducted while shutdown. The NRC understands that the licensee did not take any additional compensatory measures since the testing performed demonstrated the proper operation of the affected relays.

The NRC's basis for approving this enforcement discretion considered the fact that no risk was involved in granting the request, to not grant the NOED would result in an unnecessary operational transient of the plant, and that the request only involved allowing the licensee to credit testing, that the TS specifically identified as being conducted while shutdown, to be performed while operating. The staff concluded that Criterion B.2.1.1.a and the applicable criteria in Section C.4 to NRC Manual Chapter 9900, "Technical Guidance, Operations - Notices of Enforcement Discretion," were met. Criterion B.2.1.1.a states that for an operating plant, the NOED is intended to avoid unnecessary transients as a result of compliance with the license condition and, thus, minimize potential safety consequences and operational risks.

On the basis of the staff's evaluation of your request, we have concluded that a NOED was warranted because we were satisfied that this action involved no safety impact, did not result in an increase in risk, was consistent with the enforcement policy and staff guidance, and had no adverse impact on public health and safety. Therefore, we are exercising discretion to not enforce compliance with the TS requirement to perform TS 4.8.1.1.2.h.14 during shutdown, for the period from approximately 3:30 p.m. on December 13, 2002, until issuance of the license amendment, submitted December 17, 2002. The licensee's amendment proposes to remove the requirement, on a one-time basis, for the surveillance to be performed while shutdown. The staff plans to complete its review and issue an exigent license amendment within about 4 weeks of the date of this letter.

H. Keiser

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As stated in the Enforcement Policy, action will be taken, to the extent that violations were involved, for the root cause that led to the noncompliance for which this NOED was necessary. Additionally, NRC's inspection of the licensee's testing activities will be documented in NRC Inspection Report 05000354/2003002.

Sincerely,

/RA/

Stuart A. Richards, Director
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reaction Regulation

Enclosures: 1. NOED Request from Hope Creek dated December 17, 2002
2. December 13, 2002, Hope Creek NOED Call Participants

Docket No. 50-354

cc w/encls: See next page

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Sincerely,

/RA/

Stuart A. Richards, Director
 Project Directorate I
 Division of Licensing Project Management
 Office of Nuclear Reaction Regulation

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** Concurrence via telephone conversation

ADAMS Accession Number: ML023640237

*See previous concurrence

OFFICE	PDI-2/DLPM	PDI-2/PM	PDI-2/LA(A)	EEIB/SC*
NAME	RTaylor	SRichards for RFretz	MO'Brien for LCox	OChopra for CHolden
DATE	12/20/02	12/20/02	12/20/02	12/19/02
OFFICE	RORP/SC*	RGN-I/DRP/DD**	PDI-2/SC	PDI-2/PD
NAME	RDennig	BHolian	SRichards for JClifford	SRichards
DATE	12/19/02	12/20/02	12/20/02	12/20/02

OFFICIAL RECORD COPY

December 13, 2002, Hope Creek NOED Call Participants

The principal PSEG and NRC staff members who participated in a telephone conference on December 13, 2002, are listed below.

NRC Headquarters Staff

Stuart Richards, Director, PD-1, Division of Licensing Project Management (DLPM)
Robert Dennig, Chief, Technical Specifications Section
Robert Taylor, Acting Hope Creek Project Manager, PD-1, DLPM

NRC Region I Staff

Brian Holian, Deputy Director, Division of Reactor Projects (DRP)
Richard Crlenjak, Deputy Director, Division of Reactor Safety (DRS)
Lawrence Doerflein, Chief, Systems Branch, DRS
Richard Barkley, Senior Project Engineer, DRP
Fred Bower, Salem Resident Inspector, DRP
Gene Cobey, Senior Risk Analyst, DRS
Stephen Pindale, Senior Reactor Inspector, DRS
Wayne Schmidt, Senior Reactor Inspector, DRS
Joseph Schoppy, Senior Resident Inspector, Hope Creek