

March 9, 2005

EA-04-202; EA-04-205

J.P. Cowan, Executive Vice President
and Chief Nuclear Officer
Nuclear Management Company
27780 Blue Star Memorial Highway
Covert, MI 49043

SUBJECT: EXERCISE OF ENFORCEMENT DISCRETION
[NRC OFFICE OF INVESTIGATIONS REPORTS NO. 3-2004-003; 3-2004-004;
AND 3-2004-010]

Dear Mr. Cowan:

This refers to information provided to the U.S. Nuclear Regulatory Commission (NRC) by representatives of Nuclear Management Company (NMC) on January 16, 2004, that an auxiliary operator (AO) at the Point Beach Nuclear Plant (Point Beach) provided inaccurate information to NMC concerning a surveillance of the safety-related turbine driven auxiliary feedwater pump on January 13, 2004. After identifying the issue at Point Beach, NMC reviewed surveillance documents at its other NRC-licensed facilities and determined that AOs at the Kewaunee Nuclear Power Plant (Kewaunee) and the Palisades Nuclear Power Plant (Palisades) also provided inaccurate information concerning surveillances. The NRC Office of Investigations (OI) investigated the matter and determined that AOs at Palisades, Kewaunee, and Point Beach deliberately failed to complete required surveillances, and that they deliberately provided inaccurate information to NMC concerning the surveillances. The synopsis from each OI report is enclosed (OI Report No. 3-2004-003 for the Point Beach Plant; OI Report No. 3-2004-004 for the Palisades Plant; and OI Report No. 3-2004-010 for the Kewaunee Plant). Based on information developed during the NMC and OI investigations, the NRC has determined that violations of NRC requirements occurred.

On January 13, 2004, a Point Beach AO was assigned to verify the position of two safety-related motor operated discharge valves for the Unit 1 turbine driven auxiliary feedwater pump. The AO told a reactor operator that he had completed the required surveillance at 9:30 p.m. However, the AO had not entered the room where the valves are located after 6:00 p.m. that day. When plant staff recognized that the AO had not completed the surveillance, another person was assigned to that task, which was completed in a timely manner. Therefore, no violation of plant procedure occurred. Nonetheless, the AO engaged in deliberate misconduct in violation of 10 CFR 50.5(a)(1) and (a)(2). Specifically, the AO's deliberate failure to complete a required surveillance would have put the licensee in violation of plant procedure but for the licensee's detection of that failure, and the AO deliberately provided materially inaccurate information to NMC. The inaccurate information was material to NRC because it concealed the AO's failure to follow surveillance requirements concerning a safety-related system.

Information developed during an OI investigation at Palisades documented that on December 20 and 24, 2003, an AO recorded the temperature in the auxiliary feedwater pump room, but the AO did not enter that room on either day. Another Palisades AO recorded temperature readings inside the auxiliary feedwater pump room on December 22, 2003, and January 1, 2004, and inside the diesel generator room on December 29, 2003. However, the AO had not entered either room on those dates. An OI investigation at Kewaunee documented that an AO was assigned to complete two rounds of equipment monitoring per shift, which required the AO to traverse through a specified door in the basement of the Auxiliary Building. On October 16, 2003, and January 9, 2004, the AO documented that both rounds were conducted. However, the AO entered the room only once each day. As a result, the AOs deliberately put the licensee in violation of its surveillance requirements and deliberately put the licensee in violation of 10 CFR 50.9, "Completeness and accuracy of information." The information the AOs provided to NMC was material to NRC because it concealed the AOs' failures to follow surveillance requirements concerning a safety-related system. The violations at Palisades (EA-04-202) and Kewaunee (EA-04-205) were separately categorized in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600 (Enforcement Policy) at Severity Level IV. In addition, the three AOs at Palisades and Kewaunee engaged in deliberate misconduct in violation of 10 CFR 50.5(a)(1) and (a)(2).

NRC recognizes that NMC identified the issue at Point Beach and then took initiative to identify similar issues at its other NRC-licensed facilities. In addition, NMC took corrective actions which included, but were not limited to: (1) briefings of Operations personnel to stress the importance of employee integrity in plant operations; (2) changing procedures, as required, to ensure the logging requirements provided clear, concise guidance; and (3) taking disciplinary action. Therefore, to encourage prompt identification and correction of violations, I have been authorized, after consulting with the Director of the Office of Enforcement, to exercise enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and not to issue a Notice of Violation for the violations at the Kewaunee and Palisades Nuclear Plants. Any similar violations in the future will be considered for full application of the Enforcement Policy.

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, please provide your response within 30 days of the date of this letter. Your response should be marked "Response to Exercise of Enforcement Discretion, EA-04-202; EA-04-205" and sent to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator and Enforcement Officer, NRC Region III, and a copy to the Resident Inspectors at the Point Beach, Palisades and Kewaunee Nuclear Power Plants. If you contest this enforcement action, you should also provide a copy of your response, with the basis of your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you have any questions, please contact Mr. Patrick Loudon, Branch Chief, Point Beach Project, Region III, 630-829-9627.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and your response, if you choose to respond, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response, if you choose to respond, should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov: select **What We Do, Enforcement**, then **Significant Enforcement Actions**.

Sincerely,

/RA by Geoffrey Grant Acting for/

James L. Caldwell
Regional Administrator

Dockets No. 50-255; 50-266; 50-305
Licenses No. DPR-20; DPR-24; DPR-43

Enclosures:

1. Synopsis of OI Report No. 3-2004-003
2. Synopsis of OI Report No. 3-2004-004
3. Synopsis of OI Report No. 3-2004-010

See Attached Distribution

cc w/encls: R. Fenech, Senior Vice President, Nuclear
Fossil and Hydro Operations
D. Cooper, Senior Vice President - Group Operations
D. Malone, Site Vice President - Palisades
C. Lambert, Site Vice President - Kewaunee
D. Koehl, Site Vice President - Point Beach
Manager, Regulatory Affairs
J. Rogoff, Vice President, Counsel and Secretary
Plant Manager - Point Beach
Plant Manager - Kewaunee
Plant Manager - Palisades
J. McCarthy, Site Director of Operations
D. Weaver, Nuclear Asset Manager
Regulatory Affairs Manager - Point Beach
Training Manager - Point Beach
Site Assessment Manager - Point Beach
Site Engineering Director - Point Beach
Emergency Planning Manager - Point Beach
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Director of Nuclear Assets, Consumers Energy Company
Supervisor, Covert Township
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Michigan Department of Environmental Quality -
Waste and Hazardous Materials Division
Michigan Department of Attorney General
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Wisconsin Public Service Corporation
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J. Kitsembel, Public Service Commission of Wisconsin
K. Duvneck, Town Chairman
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J. Kitsembel, Electric Division
Public Service Commission of Wisconsin
State Liaison Officer, Michigan
State Liaison Officer, Wisconsin

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¹ Concurrence limited to approving release of the Synopsis from the OI reports.

² Concurrence received from HQ on March 3, 2005, in an e-mail from Doug Starkey, OE.

SYNOPSIS

This investigation was initiated on January 26, 2004, by the U.S. Nuclear Regulatory Commission, Office of Investigations, Region III, to determine if three Auxiliary Operators (AOs) at the Point Beach Nuclear Plant (Point Beach) deliberately failed to complete equipment surveillances and deliberately failed to provide complete and accurate information regarding those surveillances.

Based upon the evidence developed, this investigation did substantiate the allegation that one AO deliberately failed to provide complete and accurate information regarding a surveillance.

Based upon the evidence developed, this investigation did not substantiate the allegation that the three AOs deliberately failed to complete equipment surveillances.

Case No. 3-2004-003

SYNOPSIS

This investigation was initiated on January 26, 2004, by the U.S. Nuclear Regulatory Commission, Office of Investigations, Region III, to determine if two auxiliary operators at the Palisades Nuclear Plant deliberately failed to complete equipment surveillances and falsified log entries regarding those surveillances.

Based upon the evidence developed, this investigation did substantiate the allegation that the auxiliary operators deliberately failed to complete equipment surveillances and falsified log entries regarding those surveillances.

Case No. 3-2004-004

SYNOPSIS

This investigation was initiated on February 18, 2004, by the U.S. Nuclear Regulatory Commission, Office of Investigations, Region III, to determine if a Nuclear Auxiliary Operator (NAO) at the Kewaunee Nuclear Power Plant (Kewaunee) deliberately failed to complete an equipment surveillance and the deliberately falsified an Auxiliary Operator log.

Based upon the evidence developed, this investigation substantiated the allegation that the Kewaunee NAO deliberately failed to complete an equipment surveillance and the deliberately falsified an Auxiliary Operator log.

Case No. 3-2004-010

cc w/encls: R. Fenech, Senior Vice President, Nuclear
Fossil and Hydro Operations
D. Cooper, Senior Vice President - Group Operations
D. Malone, Site Vice President - Palisades
C. Lambert, Site Vice President - Kewaunee
D. Koehl, Site Vice President - Point Beach
Manager, Regulatory Affairs
J. Rogoff, Vice President, Counsel and Secretary
Plant Manager - Point Beach
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Plant Manager - Palisades
J. McCarthy, Site Director of Operations
D. Weaver, Nuclear Asset Manager
Regulatory Affairs Manager - Point Beach
Training Manager - Point Beach
Site Assessment Manager - Point Beach
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