

New York State Department of Environmental Conservation
Division of Environmental Permits, 4th Floor
625 Broadway, Albany, New York 12233-1750
Phone: (518) 402-9167 • FAX: (518) 402-9168
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Denise M. Sheehan
Commissioner

June 21, 2006

Kent E. Stoffle
Nine Mile Point Nuclear Station, LLC
P.O. Box 63
Lycoming, New York 13093

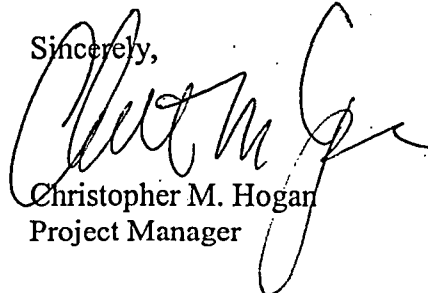
RE: Section 401 Water Quality Certification; Nine Mile Point Nuclear Station

Dear Mr. Stoffle:

In conformance with the requirements of the State Uniform Procedures Act, Article 70 of the Environmental Conservation Law and its implementing regulations 6 NYCRR Part 621 (Uniform Procedures), enclosed is the Section 401 Water Quality Certification for the Nine Mile Point Nuclear Station.

Please read all terms and conditions carefully. If you have any questions regarding the certification please contact me at 518-402-9151.

Sincerely,



Christopher M. Hogan
Project Manager

cc: C. Logan, Constellation
J. Spina, Constellation
L.C. Fields, NRC
A. Peterson, NYSERDA
A. Kasius, DOS
D. May, DPS
J. Feltman, Region 7
W. Little, Legal
M. Calaban, F&W



PERMIT
Under the Environmental Conservation Law (ECL)

Permittee and Facility Information

Permit Issued To:

NINE MILE POINT NUCLEAR STATION LLC
39 WEST LEXINGTON ST
BALTIMORE, MD 21201

Facility:

NINE MILE PT NUCLEAR STATION LLC
348 LAKE RD
SCRIBA, NY 13126

Facility Location: in SCRIBA in OSWEGO COUNTY

Facility Principal Reference Point: NYTM-E: 386.065 NYTM-N: 4819.673

Latitude: 43°31'16.7" Longitude: 76°24'35.2"

Authorized Activity: This 401 Water Quality Certification certifies that the operation of Units 1 and 2 at the Nine Mile Point Nuclear Power Plant under a renewed federal license by the U.S. Nuclear Regulatory Commission (NRC) will not contravene water quality standards. The federal license issued by the NRC authorizes the operation of Units 1 and 2 until August 22, 2029 and October 31, 2046, respectively. This water quality certification for Units 1 and 2 is authorized to run concurrently with the federal license for each unit. The expiration date of this water quality certification reflects expiration date of Unit 1. The Department will reevaluate the facility on a five-year basis for renewal of the SPDES permit.

Permit Authorizations

Water Quality Certification - Under Section 401 - Clean Water Act

Permit ID 7-3556-00013/00026

New Permit

Effective Date: 6/21/2006

Expiration Date: 8/22/2046

NYSDEC Approval

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

Permit Administrator: WILLIAM R ADRIANCE, Chief Permit Administrator

Address: NYSDEC HEADQUARTERS
 625 BROADWAY
 ALBANY, NY 12233

Authorized Signature: William R. Adriance

Date 6/21/06

Permit Components



NATURAL RESOURCE PERMIT CONDITIONS

WATER QUALITY CERTIFICATION SPECIFIC CONDITION

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

**NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following
Permits: WATER QUALITY CERTIFICATION**

1. **Conformance With Plans** All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans were prepared by Nine Mile Point Nuclear Station, LLC, dated June 30, 2005..
2. **Coverage under 401 Water Quality Certification** This Water Quality Certification covers normal operation of the facility. It does not cover ongoing maintenance activities that result in discharges into the Waters of United States that trigger Section 404 Clean Water Act individual permits by the U.S. Army Corps of Engineers. Any proposed work on the shoreline must be covered by the appropriate Department permits which may include: Article 15, Protection of Waters; Article 34, Coastal Erosion; or Section 401 of the federal Clean Water Act.
3. **Best Technology Available (BTA) Determination** Pursuant to 6NYCRR Part 704 and Section 316(b) of the Clean Water Act a Best Technology Available (BTA) determination will be conducted for the facility as part of the renewal of the State Pollutant Discharge Elimination (SPDES) permit. The BTA determination is based on whether the facility meets the regulatory criteria to minimize adverse environmental impacts to aquatic species. Biological studies will be required by the SPDES permit, and will be used by the Department to determine whether additional measures are needed to achieve BTA. As necessary, Mitigation Plans will need to be developed, submitted, and completed in consultation with Department staff.
4. **State May Order Removal or Alteration of Work** If future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department of Environmental Conservation it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable and flood capacity of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.
5. **State Not Liable for Damage** The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.
6. **Precautions Against Contamination of Waters** All necessary precautions shall be taken to



preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.

7. Even Dredging Any material dredged in the conduct of the work herein permitted shall be removed evenly, without leaving large refuse piles, ridges across or along the bed of a waterway or floodplain, deposits within any regulatory floodway, or deep holes that may have a tendency to cause damage to navigable channels or to the banks of a waterway.

8. State May Require Site Restoration If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.

WATER QUALITY CERTIFICATION SPECIFIC CONDITIONS

1. Water Quality Certification The NYS Department of Environmental Conservation hereby certifies that the subject project will not contravene effluent limitations or other limitations or standards under Sections 301, 302, 303, 306 and 307 of the Clean Water Act of 1977 (PL 95-217) provided that all of the conditions listed herein are met.

GENERAL CONDITIONS - Apply to ALL Authorized Permits:

1. Facility Inspection by The Department The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

2. Relationship of this Permit to Other Department Orders and Determinations Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

3. Applications For Permit Renewals, Modifications or Transfers The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:



Regional Permit Administrator
NYSDEC REGION 7 HEADQUARTERS
615 ERIE BOULEVARD WEST
SYRACUSE, NY 13204 -2400

4. Submission of Renewal Application . The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Water Quality Certification.

5. Permit Modifications, Suspensions and Revocations by the Department The Department reserves the right to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

6. Permit Transfer Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.



Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

Item E: Haulage Permits for Transporting Spoil The permittee and his contractor (if any) shall contact appropriate State and local highway officials to determine if haulage permits are required for transporting the spoil to the disposal site.

Item F: Compliance with Coastal Management Program The proposed activity complies with New York State's approved coastal management program or to the maximum extent practicable with the applicable and approved local waterfront revitalization program as required by Executive Law, Article 42, and will be conducted in a manner consistent with such program.