

March 13, 2007

EA-07-001

Mr. Kevin Nietmann
Acting Vice President Nine Mile Point
Nine Mile Point Nuclear Station, LLC
P.O. Box 63
Lycoming, NY 13093

SUBJECT: FINAL SIGNIFICANCE DETERMINATION FOR A WHITE FINDING AND
NOTICE OF VIOLATION (NRC Inspection Report 05000220/2006011;
05000410/2006011) - NINE MILE POINT NUCLEAR STATION

Dear Mr. Nietmann:

The purpose of this letter is to provide you the final results of our significance determination of the preliminary White finding identified in the subject inspection report. The inspection finding was assessed using the Significance Determination Process and was preliminarily characterized as White, a finding of low to moderate increased importance to safety that may require additional NRC inspection. This finding involved your Licensed Operator Requalification Training Program. Specifically, the annual dynamic simulator exam integrity was unintentionally compromised at Unit 1 for calendar years 2005 and 2006, since the process used to select and validate the simulator exam scenarios resulted in the licensed operators being knowledgeable of a significant portion of the exam prior to its administration. When this concern was identified in 2006, you promptly re-administered valid exams. However, the 2005 exams were not corrected prior to returning licensed operators to normal duties.

In a telephone conversation with Mr. Robert Summers of NRC, Region I, on February 20, 2007, Mr. Kent Engelmann of your staff indicated that Nine Mile Point Nuclear Station did not contest the characterization of the risk significance of this finding, and that you declined your opportunity to discuss this issue in a Regulatory Conference, or provide a written response.

After considering the information developed during the inspection, the NRC has concluded that the inspection finding is appropriately characterized as White, a finding of low to moderate increased importance to safety. The issue has a low to moderate safety significance because it represented a failure to recognize and correct an examination integrity compromise of the 2005 Unit 1 simulator exam scenarios, and a subsequent return to normal watch-standing duties by the licensed operators without adequate compensatory actions for the compromised examinations.

You have 30 calendar days from the date of this letter to appeal the staff's determination of significance for the identified White finding. Such appeals will be considered to have merit only if they meet the criteria given in the NRC Inspection Manual Chapter 0609, Attachment 2.

Mr. Kevin Nietmann

2

The NRC will assess plant performance for this issue in accordance with Inspection Manual Chapter 0305, and we will use the NRC Action Matrix to determine the most appropriate NRC response. We will notify you, by separate correspondence, of that determination.

In addition, the NRC has determined that this issue involved a violation of 10 CFR 55.49, as cited in the attached Notice of Violation (Notice). The circumstances surrounding the violation are described in detail in the subject inspection report. In accordance with the NRC Enforcement Policy, the Notice is considered an escalated enforcement action because it is associated with a White finding.

You are required to respond to this letter, and should follow the instructions specified in the enclosed Notice when preparing your response.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, 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 should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Sincerely,

/RA/

Samuel J. Collins
Regional Administrator

Docket No: 50-220
License No: DPR-63

Enclosure: Notice of Violation

cc w/encl:

M. J. Wallace, President, Constellation Generation

M. Heffley, Senior Vice President and Chief Nuclear Officer

C. W. Fleming, Esquire, Senior Counsel, Constellation Energy Group, LLC

M. J. Wetterhahn, Esquire, Winston and Strawn

P. Smith, President, New York State Energy, Research, and Development Authority

J. Spath, Program Director, New York State Energy Research and Development Authority

P. D. Eddy, Electric Division, NYS Department of Public Service

C. Donaldson, Esquire, Assistant Attorney General, New York Department of Law
Supervisor, Town of Scriba

T. Judson, Central NY Citizens Awareness Network

D. Katz, Citizens Awareness Network

T. Shortell, Manager, Nuclear Training

S. Glenn, INPO

cc w/encl:

M. J. Wallace, President, Constellation Generation
 M. Heffley, Senior Vice President and Chief Nuclear Officer
 C. W. Fleming, Esquire, Senior Counsel, Constellation Energy Group, LLC
 M. J. Wetterhahn, Esquire, Winston and Strawn
 P. Smith, President, New York State Energy, Research, and Development Authority
 J. Spath, Program Director, New York State Energy Research and Development Authority
 P. D. Eddy, Electric Division, NYS Department of Public Service
 C. Donaldson, Esquire, Assistant Attorney General, New York Department of Law
 Supervisor, Town of Scriba
 T. Judson, Central NY Citizens Awareness Network
 D. Katz, Citizens Awareness Network
 T. Shortell, Manager, Nuclear Training
 S. Glenn, INPO

Distribution w/encl:

ADAMS (PARS)
 SECY
 CA
 OEMAIL
 OEWEB
 L Reyes, EDO
 W Kane, DEDR
 C Carpenter, OE
 L Lopez, OE
 O Samuel, OE
 D Solorio, OE
 L Trocine, OE
 S Bogle, OE
 L Chandler, OGC
 B Jones, OGC
 M Elwood, OGC
 J Dyer, NRR
 M Weber, NRR
 B Boger, NRR
 J Lubinski, NRR
 D Pickett, PM, NRR
 J Lamb, OEDO
 S Collins, RA

M Dapas, DRA
 Enforcement Coordinators RII, RIII, RIV
 E Hayden, OPA
 H Bell, OIG
 G Caputo, OI
 L Tremper, OC
 D Screnci/N Sheehan, RI
 B McDermott, DRP
 K Farrar, RI
 D Holody, RI
 R Summers, RI
 A DeFrancisco, RI
 C O'Daniell, RI
 A Blough, DRS
 J Caruso, Chief Examiner, DRS
 L Cline, SRI - NMP
 E Knutson, RI - NMP
 K Kolek, OA - NMP
 DRS Master Exam File C Bixler
 (w/concurrences)
 R1DRP_Mail
 Region I OE Files (with concurrences)

SUNSI Review Complete: RJS (Reviewer's Initials)

ADAMS Document Accession No.: ML070720217

DOCUMENT NAME: C:\FileNet\ML070720217.wpd

After declaring this document "An Official Agency Record" it will be released to the Public.

To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure

"E" = Copy with attachment/enclosure "N" = No copy

OFFICE	RI/ORA	RI/DRS	RI/DRP	RI/DRS	RI/DRS
NAME	RSummers	MSykes	BMcDermott	CCahill	ABlough
DATE	02/22/07	02/23/07	02/26/07	02/28/07	03/2/07
OFFICE	RI/ORA	RI/RC	OE	NRR	RI/RA
NAME	DHolody	KFarrar	MFahay*	RPascarelli*	SCollins
DATE	03/1/07	03/1/07	03/8/07	03/6/07	03/ /07

OFFICIAL RECORD COPY

*via e-mail from D. Starkey on 3/8/07

Enclosure

NOTICE OF VIOLATION

Nine Mile Point Nuclear Station, LLC
Nine Mile Point Nuclear Station Unit 1

Docket No. 50-220
License No. DPR-63
EA-07-001

During an NRC inspection conducted on October 16, 2006 through January 9, 2007, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 55.49, requires, in part, that facility licensees shall not engage in any activity that compromises the integrity of any application, test, or examination required by this part. The integrity of a test or examination is considered compromised if any activity, regardless of intent, affected, or, but for detection, would have affected the equitable and consistent administration of the test or exam.

Contrary to the above, the facility licensee engaged in an activity that compromised the integrity of the annual operating (simulator) exam at Unit 1 for calendar years 2005 and 2006 that affected the equitable and consistent administration of the exam. Specifically, the process used to select and validate the simulator exam scenarios resulted in the licensed operators being knowledgeable of a significant portion of the exam prior to its administration.

This violation is associated with a White SDP finding.

Pursuant to the provisions of 10 CFR 2.201, Nine Mile Point Nuclear Station, LLC is hereby required to submit a written statement or explanation 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). This reply should be clearly marked as a "Reply to a Notice of Violation; EA-07-001" and should include: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

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 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, 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 2.390(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 13th day of March 2007