

Indian Point 3  
Nuclear Power Plant  
P.O. Box 215  
Buchanan, New York 10511  
914-736-8000



**New York Power  
Authority**

January 8, 1993  
IP3-NRC-92-102

License No. 50-286  
Docket No. DPR-64

Mr. James Lieberman, Director  
Office of Enforcement  
U.S. Nuclear Regulatory Commission  
Mail Stop 7H5  
Washington, DC 20555

**Subject: Reply to Notice of Violation 50-286/92-24**

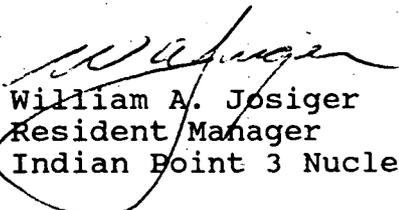
Dear Mr. Lieberman

The Authority Agrees with the Notice of Violation and proposed imposition of civil penalties associated with NRC Inspection Report No. 50-286/92-24 (EA 92-135 and EA 92-159).

Enclosed is a check payable to the Treasurer of the United States for one hundred thirty seven thousand, five hundred dollars (\$137,500) which is the amount of the civil penalties.

The enclosed Attachment I and Attachment II are the responses to the violation.

Very truly yours,

  
William A. Josiger  
Resident Manager  
Indian Point 3 Nuclear Power Plant

waj/bjr/rj  
attachments

154108

9301150092

IE01  
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cc: U.S. Nuclear Regulatory Commission (original)  
Attn: Document Control Desk  
Mail Station P1-137  
Washington, DC 20555

Mr. Thomas T. Martin  
Regional Administrator  
U.S. Nuclear Regulatory Commission  
Region I  
475 Allendale Road  
King of Prussia, PA 19406

IP3 Resident Inspector  
Indian Point 3  
U.S. Nuclear Regulatory Commission  
P.O. Box 337  
Buchanan, New York 10511

ATTACHMENT I  
NOTICE OF VIOLATION EA 92-135

VIOLATION

During an enforcement conference conducted on April 10, 1992, violations of NRC requirements were identified. In accordance with the revised "General Statement of Policy and Procedure for NRC Enforcement Action", 10 CFR Part 2, Appendix C (1992), the Nuclear Regulatory Commission proposes to impose civil penalties pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violations and associated civil penalty are set forth below:

10 CFR 50.9(a) requires, in part, that information provided to the Commission by a licensee shall be complete and accurate in all material respects.

Contrary to the above, on April 10, 1992, at an enforcement conference conducted at the Region I office, the New York Power Authority made several presentations of fact that were not accurate in all material respects, as evidenced by the following examples:

1. The licensee asserted that on March 19, 1992, the boric acid heat trace circuit (circuit 42) on the emergency boration path was maintaining temperature above 145 degrees F (the minimum temperature at which operability is determined) when, in fact, the temperature of the emergency boration line, measured with a hand pyrometer on the night of March 19, 1992, by I&C technicians, was 141 degrees F (approximately eight feet from the charging line tee).
2. The licensee asserted that an annunciated alarm and circuit condition on circuit 63 indicated that the boric acid heat trace circuit for that portion of the blending makeup/blender bypass boration line was operating correctly during the midnight shift on March 19, 1992. In fact, the readings indicated that circuit 63 was not functioning properly, and logs taken at 12:30 a.m. on March 19 indicated that circuit 63 displayed a high temperature alarm with the heat trace circuit still energized (an abnormal condition).

ATTACHMENT I  
NOTICE OF VIOLATION EA 92-135

3. The licensee presented information which appeared to indicate that procedures did not exist to address the loss of safeguards automatic initiation signals, when, in fact, alarm response procedure, ARP-4, clearly defines the plant condition (the loss of DC power to bus 5A interlocking relays) which existed on January 23, 1992, and the required action, to declare the bus and associated equipment inoperable.
4. The licensee asserted that NRC inspection report 92-03 was in error regarding the commercial dedication process of replacement fuses associated with a January 23, 1992 event, when, in fact, the NRC report is correct and the statement in the report was taken from the significant occurrence report (SOR) which was written by the licensee for the January 23 event.

This information is material because it related directly to compliance with NRC requirements and resulted in substantial additional inspection by the NRC staff in order to reverify the NRC's regulatory position.

This is a Severity Level III violation (Supplement VII).  
Civil Penalty - \$100,000

RESPONSE

The Authority agrees with the violation.

The reason the violation occurred was inadequate preparation for the April 10, 1992 enforcement conference. The staff failed to obtain accurate information required to support the information in the presentation. The lack of a formal review process and inadequate documentation practices also contributed.

Actions taken to correct the violation and prevent recurrence include:

- \* Scheduling sufficient time and resources to support investigations, reviews, quality reports and presentations.
- \* Involving staff members associated with the event in the presentation preparation process.

ATTACHMENT I  
NOTICE OF VIOLATION EA 92-135

- \* Emphasizing to presentation developers/presenters the necessity for attention to detail, effective reviews, thorough interviews, and verification of information through documented facts (i.e., log books, procedures, etc.).

These actions were effective in preparing for conferences associated with inspection reports 92-20 (August 20, 1992, EA 92-131) and 92-24 (October 15, 1992, EA 92-159).

VIOLATION

During an NRC inspection conducted on August 18-19 and September 8-10, 1992, violations of NRC requirements were identified. In accordance with the revised "General Statement of Policy and Procedure for NRC Enforcement Actions", 10 CFR Part 2, Appendix C, the Nuclear Regulatory Commission proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violations and associated civil penalties are set forth below:

10 CFR 26.20 states, in part, each licensee subject to this Part shall establish and implement written policies and procedures designed to meet the general performance objectives and specific requirements of this Part.

10 CFR Part 26.27(b)(2) states, in part, the first confirmed positive drug test must, as a minimum, result in immediate removal from activities for at least fourteen days. Plans for treatment, follow-up, and future employment must be developed, and any rehabilitation program deemed appropriate must be initiated during such suspension period. Satisfactory management and medical assurance of the individual's fitness to adequately perform activities within the scope of this Part must be obtained before permitting the individual to be returned to these activities.

- A. Section 7.4 of the licensee's corporate FFD Procedure 20-03, "Fitness for Duty - Appendix A", states, in part, that satisfactory management and medical assurance regarding an employee's fitness to adequately perform activities shall be obtained before permitting the employee to be returned to these activities.

ATTACHMENT II  
NOTICE OF VIOLATION EA 92-159

Section 7.8.5.1, "Reinstatement Following A Confirmed Positive Drug Test", of the licensee's site FFD Policy 1.0, Rev. 4, "Fitness for Duty Program", states that to be eligible for return to unescorted access status, employees must meet the following initial condition: the employee's system shall be free of all abusive drugs as verified by follow-up testing.

Contrary to the above, an NRC-licensed reactor operator, whose unescorted plant access had been suspended following a positive drug test on July 14, 1992 had his access reinstated on July 29, 1992, and was reassigned to licensed duties on July 30, 1992, for approximately three hours, without the licensee obtaining medical assurance as to the operator's fitness to perform licensed duties. Although the individual was tested for drugs on July 29, 1992, before returning to duties, the results of that test, which later were reported to have been positive, were not known to the licensee before the operator assumed duties on July 30, 1992.

- B. Section 7.4 of the licensee's corporate FFD Procedure 20-03, "Fitness for Duty - Appendix A", states, in part, that plans for treatment, follow-up and future employment of employees will be developed and a rehabilitation program shall be initiated during the fourteen day removal (suspension) period.

Section 7.8.5.1, "Reinstatement Following A Confirmed Positive Drug Test", of the licensee's site FFD Policy 1.0, Rev. 4, "Fitness For Duty Program", states that to be eligible for return to unescorted access status, employees must meet the following initial condition: a follow-up testing program has been established.

Contrary to the above, as of September 10, 1992, a follow-up testing program was not established for an NRC-licensed reactor operator who tested positive for illegal drug usage on August 14, 1990, and whose unescorted access was reinstated on September 3, 1990, upon his reassignment to duty on that date.

These violations are classified in the aggregate as a Severity Level III problem (Supplement VII).

Cumulative Civil Penalty - \$37,500.

ATTACHMENT II  
NOTICE OF VIOLATION EA 92-159

RESPONSE

The Authority agrees with the violations.

The reason for the violations were personal error on the part of our fitness for duty administrative staff resulting in misinterpretation of the rule and development of deficient Fitness For Duty Administrative Procedures for Indian Point Three. The Indian Point 3 procedures did not specifically direct the Fitness For Duty staff to conduct drug screening prior to reinstatement or to establish specific follow-up testing frequency.

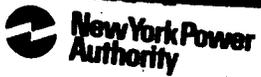
Corrective actions to prevent recurrence are:

The Fitness for Duty Manager and Program Administrator have been suitably counselled on the importance of attention to detail. The new Indian Point 3 Resident Manager will personally conduct another session with the individuals involved.

Fitness For Duty procedure FFD-1 has been revised to direct the Fitness for Duty staff to verify that an individual is free of the abusive drugs identified in 10CFR26, Appendix A, Subpart B 2.1 prior to reinstatement of unescorted access as confirmed by a return to duty drug screen.

Fitness for duty procedures have also been revised to specify follow-up testing. The employee will undergo follow-up drug and alcohol testing at least twice a month for the first two months, once a month for the next two months and once a quarter for the next two years and eight months. These unannounced tests will be in addition to the employee random selection program. A tracking system has been developed to ensure follow-up tests are completed.

The reactor operator that tested positive for illegal drug usage on August 14, 1990 received a followup test on March 7, 1991. In addition, the individual was tested on November 5, 1992 and December 2, 1992 as part of the random selection program. The results of these tests were negative.



1633 Broadway  
New York, New York 10019

DISBURSE NO.  
194126

VENDOR  
025392

1-23/210

PAY EXACTLY ONE HUNDRED THIRTY-SEVEN THOUSAND FIVE HUNDRED AND NO/100\*\*\*\*\*  
CHECK AMOUNT  
\$\*\*\*\*137,500.00

DATE  
12/29/92

TO THE  
ORDER OF

194126  
CHECK NO: 206015  
TREASURER OF THE UNITED STATES  
20224-5265

VOID AFTER 6 MONTHS

MORGAN GUARANTY TRUST COMPANY OF NEW YORK

*W. J. Zuhone*

Authorized Signature

⑈ 206015⑈ ⑆021000238⑆ 050 18 820⑈

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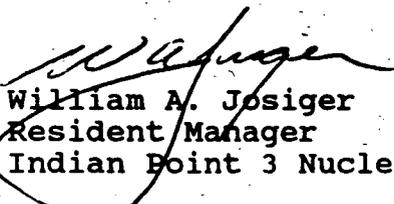
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attachments

*Rec'd  
WPL # 194126  
for \$137,500.00*

150003

7301150092 730108  
PDR ADOCK 05000286  
G PDR

*CERT # P238 156 909*

*JEH*

cc: U.S. Nuclear Regulatory Commission (original)  
Attn: Document Control Desk  
Mail Station P1-137  
Washington, DC 20555

Mr. Thomas T. Martin  
Regional Administrator  
U.S. Nuclear Regulatory Commission  
Region I  
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