

U. S. NUCLEAR REGULATORY COMMISSION
REGION I

Enforcement Conference Report No. 50-286/92-24

Docket No. 50-286

License No. DPR-64

Licensee: New York Power Authority
Post Office Box 215
Buchanan, New York 10511

Facility Name: Indian Point Station, Unit 3

Enforcement Conference At: King of Prussia, Pennsylvania

Conference Conducted: October 15, 1992

Prepared By: *Richard R. Keimig for*
Edward B. King, Physical Security Inspector

11-6-92
date

Approved By: *Richard R. Keimig*
Richard R. Keimig, Chief
Safeguards Section
Division of Radiation Safety and Safeguards

11-6-92
date

Conference Summary: The Enforcement Conference was held to discuss an event, and a resultant reactive inspection, related to the licensee's Fitness-For Duty (FFD) program that occurred on July 30, 1992. During that event, an NRC licensed operator who previously tested positive for marijuana, during a licensee-administered random drug test, was reassigned licensed duties prior to obtaining medical assurance as to the operator's fitness to perform licensed duties. During the conference, the licensee's evaluation of the apparent violations identified in NRC Region I Inspection Report No. 50-286/92-24 was discussed, along with the immediate and long term corrective actions, and the licensee's perception of the appropriateness of the apparent violations relative to criteria outlined in the NRC Enforcement Policy. The conference was attended by licensee management and staff and by NRC management and staff.

DETAILS

1.0 Licensee and NRC Personnel in Attendance

Attachment 1 to this conference report identifies licensee and NRC personnel in attendance.

2.0 Purpose of Conference

The purpose of the conference was to discuss the factors which attributed to an NRC licensed operator, who previously tested positive for marijuana during a licensee-administered random drug test, being reassigned licensed duties prior to obtaining medical assurance as to the operator's fitness to perform licensed duties. Details of the event are described in NRC Region I Inspection Report No. 50-286/92-24. Also discussed during the conference were the licensee's evaluation of two apparent violations identified during the inspection, the licensee's investigation of the event, the immediate and long term corrective actions, and the perception of the appropriateness of the violations relative to criteria outlined in the NRC's Enforcement Policy (10 CFR Part 2, Appendix C).

3.0 NRC Comments

NRC management opened the conference by identifying the purpose of the conference, introducing the conference attendees, and presenting a summary of the event and the apparent violations. Attachment 2 to this conference report provides the conference agenda.

4.0 Licensee Comments

Licensee representatives addressed the issues of concern by making a presentation which included the licensee's position, root cause analysis, and corrective actions. Attachment 3 to this conference report is a copy of the licensee's presentation. With respect to the inspection report, the licensee agreed with the facts documented in the inspection report, with the following exception. The fourth paragraph in Section 4, "Follow-Up Testing Program," of NRC Region I Inspection Report No. 50-286/92-24, indicated that, up to the time of the inspection, an NRC-licensed operator who tested positive for use of a illegal drug on August 14, 1990 had not been subjected to any FFD testing since his return to duty on September 3, 1990. During the enforcement conference your staff provided information not previously known or made available to the NRC that documented that the NRC-licensed operator was subjected to a follow-up drug test on March 7, 1991, the results of which were negative. We acknowledge that the sentence in the inspection report is factually incorrect and is hereby corrected.

5.0 Concluding Statements

5.1 NRC

NRC Region I management acknowledged that the plans and corrective actions presented appeared to adequately address NRC concerns. NRC Region I management stated that the licensee would be informed of the need for and nature of appropriate enforcement action relative to the apparent violations.

5.2 New York Power Authority

Licensee management concluded by stating that even though the issues were attributed to a lack of procedural specifics and guidance, significant management attention has been directed to reviewing and evaluating the program to ensure the program maintains its effectiveness. Additionally the licensee reemphasized its commitment to implementing and maintaining a quality fitness-for-duty program.

ATTACHMENT 1

NEW YORK POWER AUTHORITY ENFORCEMENT CONFERENCE

October 15, 1992

Conference Attendees

New York Power Authority

R. Beetle, Executive Vice President - Nuclear Generation
J. Russell, Resident Manager / Indian Point 3
M. Peckham, General Manager-Support Services
J. Dube, Safety and Fire Protection Manager / Fitness-For-Duty Manager
B. Ray, Manager-Licensing/Operational Experience Review Group (OREG)
B. Sorrell, OREG Engineer
A. Levine, Attorney

Nuclear Regulatory Commission

R. Cooper, Director, Division of Radiation Safety and Safeguards (DRSS)
W. Hehl, Director, Division of Reactor Projects (DRP)
J. Joyner, Chief, Facilities Radiological Safety and Safeguards Branch (DRSS)
C. Cowgill, Chief, Reactor Projects Branch No. I
L. Bettenhausen, Chief, Operations Branch, Division of Reactor Safety (DRS)
R. Capra, Director, Project Directorate I-1, Nuclear Reactor Regulation (NRR)
L. Bush, Chief, Program Development and Review Section, NRR
N. Conicella, Project Manager, NRR
R. Rosano, Enforcement Specialist
R. Keimig, Chief, Safeguards Section, DRSS
E. King, Physical Security Inspector
K. Smith, Regional Counsel
G. Tracy, Senior Resident Inspector
T. Easlick, Enforcement Specialist
J. Tappert, Reactor Engineer
R. Urban, Project Engineer
B. Westreich, Resident Inspector

ATTACHMENT (2)

U.S. NUCLEAR REGULATORY COMMISSION

ENFORCEMENT CONFERENCE

WITH

NEW YORK POWER AUTHORITY

OCTOBER 15, 1992

ENFORCEMENT CONFERENCE AGENDA

I. Introduction and Opening Remarks

Richard W. Cooper, II

**Division of Radiation Safety and
Safeguards (DRSS)**

II. Presentation of Apparent Violations

James H. Joyner, Chief

Facilities Radiological Safety and Safeguards Branch, DRSS

III. Licensee Presentation

IV. NRC Followup Questions

V. Conclusion of Conference
Mr. Cooper

**OVERHEADS
ENFORCEMENT CONFERENCE AGENDA
OCTOBER 15, 1992**

OPENING REMARKS

**NRC FINDING
DESCRIPTION AND
NYPA POSITION**

ROOT CAUSE

CORRECTIVE ACTIONS

CLOSING REMARKS

**NRC ENFORCEMENT CONFERENCE
OCTOBER 15, 1992**

ITEM #1

"..... PLANT POLICY DID NOT SPECIFICALLY REQUIRE MEDICAL ASSURANCE OF AN INDIVIDUAL'S FITNESS PRIOR TO PERMITTING THE INDIVIDUAL TO BE RETURNED TO DUTY."

NEW YORK POWER AUTHORITY POSITION

AGREE WITH NRC STATEMENT.

CHRONOLOGICAL ORDER OF EVENTS

ROOT CAUSE

PLANT PROCEDURE NOT SPECIFIC.

CORRECTIVE ACTIONS

PLANT PROCEDURES WERE REVISED TO SPECIFICALLY QUALIFY MEDICAL ASSURANCE.

**NRC ENFORCEMENT CONFERENCE
OCTOBER 15, 1992**

ITEM #2

".... THE LICENSEES FAILURE TO ESTABLISH A FOLLOW-UP TESTING PROGRAM...."

NEW YORK POWER AUTHORITY POSITION

AGREE WITH NRC STATEMENT THAT A SPECIFIC FOLLOW-UP TESTING PROGRAM WAS NOT ESTABLISHED FOR THE OPERATOR CONFIRMED POSITIVE IN 1990.

CHRONOLOGICAL ORDER OF EVENTS

CAUSE

LACK OF PROCEDURAL GUIDANCE WITH RESPECT TO A DETAILED FOLLOW-UP TESTING PROGRAM.

CORRECTIVE ACTION

PROCEDURES WERE REVISED TO OUTLINE SPECIFIC DETAIL REGARDING FOLLOW-UP TESTING.

NRC FINDING #2

EMPLOYEE #1

TESTED POSITIVE 3/18/92

**TESTED - 3/22/92
4/7/92
4/29/92
6/1/92
6/3/92
7/21/92**

EMPLOYEE #2

TESTED POSITIVE 3/19/92

**TESTED - 3/21/92
4/21/92
5/21/92
6/10/92
7/21/92
9/29/92**

EMPLOYEE #3

TESTED POSITIVE 7/24/92

TESTED - 9/24/92

EMPLOYEE #4

TESTED POSITIVE 7/14/92

TESTED - 8/3/92

**EMPLOYEE NUMBER 1, 2 AND 3 WERE CONFIRMED POSITIVE FOR ALCOHOL.
EMPLOYEE NUMBER 4 WAS CONFIRMED POSITIVE FOR THC.**