



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION I  
475 ALLENDALE ROAD  
KING OF PRUSSIA, PA 19406-1415

March 24, 2011

EA-10-265

Mr. Samuel Belcher  
Vice President  
Nine Mile Point Nuclear Station, LLC  
P.O. Box 63  
Lycoming, NY 13093

SUBJECT: NRC INVESTIGATION REPORT NO. 1-2010-026 AND NRC INSPECTION  
REPORT NO. 05000220/2011009

Dear Mr. Belcher:

This letter refers to an investigation by the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) that was conducted at Constellation Energy Nuclear Group, LLC's (Constellation's) Nine Mile Point Nuclear Station (NMP) Unit 1. The investigation, completed on December 16, 2010, was initiated by the NRC after Constellation informed the NRC that a NMP Unit 1 system engineer (SE) did not immediately notify site management upon becoming aware of an operability concern with the NMP #11 Reactor Building Emergency Ventilation System (RBEVS). Based on the evidence developed during the OI investigation, the NRC has concluded that the SE deliberately failed to promptly notify site management of the RBEVS operability concern, and as such caused Constellation to violate requirements set forth in 10 CFR 50, Appendix B, Criterion XVI, "Corrective Action." The violation is cited in the enclosed Notice of Violation (Notice), and the circumstances surrounding the violation are described in detail in this letter.

On Friday, March 5, 2010, the SE received information indicating that a charcoal sample taken from an NMP #11 RBEVS charcoal filter had failed its two-year required surveillance test (ST). The sample did not meet the minimum value for radioactive methyl iodide removal specified in NMP Technical Specifications (TS). As a result, in accordance with the TS, the NMP1 RBEVS train should have been declared inoperable and the plant should have promptly entered the seven day TS limiting condition of operation (LCO) action statement. In addition, in accordance with 10 CFR 50, App. B, Criterion XVI and site procedures, the SE should have immediately notified his supervision of the failed ST, since it constituted a condition adverse to quality. However, the SE deliberately decided to not inform his supervision of the failed ST until Monday, March 8, 2010. The SE later admitted his failures to Constellation during the internal Constellation investigation into this matter, and the SE also cooperated with NRC investigators during the NRC OI investigation.

Because licensees are responsible for the actions of their employees and because the violation involved deliberate misconduct, the violation was evaluated under the NRC's traditional enforcement process as set forth in Section 2.2.4 of the NRC Enforcement Policy. The violation is considered to be of very low safety significance because NMP returned the #11 RBEVS train to service on March 9, 2010, which would have been within the required seven day timeframe even if the LCO had been appropriately entered on March 5, 2010. Therefore, the NRC has characterized the violation at Severity Level (SL) IV, in accordance with the NRC Enforcement Policy. The violation is being cited in the Notice in accordance with the Enforcement Policy, because the violation involved the acts of an SE who with the operability information he possessed, was in a position with responsibilities that were directly related to the oversight of licensed activities.

Constellation's corrective actions included: 1) replacing the subject NMP #11 RBEVS charcoal, ensuring the #11 RBEVS train successfully passed the ST, and then returning the system to service on March 9, 2010; 2) taking appropriate disciplinary action against the involved SE and, 3) conducting training for all SEs regarding following requirements and not engaging in deliberate misconduct.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in this letter. Therefore, you are not required to respond to this letter unless the description herein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's document system, the Agency-wide Documents Access and Management 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 or proprietary, information so that it can be made available to the Public without redaction.

Enclosure

S. Belcher

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Should you have any questions regarding this matter, please contact Mr. Glenn Dentel, Chief, Projects Branch 1, Division of Reactor Projects in Region I, at (610) 337-5223.

Sincerely,

A handwritten signature in black ink, appearing to read "Darrell J. Roberts". The signature is fluid and cursive, with the first name being the most prominent.

Darrell J. Roberts, Director  
Division of Reactor Projects

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

Enclosure: Notice of Violation

cc w/encl: Distribution via ListServ

S. Belcher

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Should you have any questions regarding this matter, please contact Mr. Glenn Dentel, Chief, Projects Branch 1, Division of Reactor Projects in Region I, at (610) 337-5223.

Sincerely,

/RA/

Darrell J. Roberts, Director  
Division of Reactor Projects

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

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## NOTICE OF VIOLATION

Constellation Energy Nuclear Group, LLC  
Nine Mile Point Nuclear Station Unit 1

Docket No. 50-220  
License No. DPR-63  
EA-2010-265

During a U.S. Nuclear Regulatory Commission (NRC) investigation by the NRC Office of Investigations completed on December 16, 2010, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 50, Appendix B, Criterion XVI, "Corrective Action" states that measures shall be established to assure that conditions adverse to quality, such as failures, malfunctions, deficiencies, deviations, defective material and equipment, and non-conformances are promptly identified and corrected.

Constellation Energy Nuclear Generation Fleet Program Directive CNG-CA-1.01, "Corrective Action Program," Revision 0001, Step 6.1 states, in part, that all individuals have a responsibility to identify and document conditions adverse to quality and to initiate corrective action. If the initiator determines that the condition requires immediate action (for example, an immediate operability concern exists), he/she shall immediately notify his or her immediate supervisor, or an appropriate level of supervision (or management) in the affected organization. The individual or reviewing supervisor shall immediately notify Operations of any condition adverse to quality that requires immediate action.

Nine Mile Point Unit 1 Technical Specification 3.4.4, "Emergency Ventilation System," specifies that, if the results of laboratory carbon sample analysis do not show greater than or equal to 95 percent radioactive methyl iodide removal, then reactor operation in the power operating condition is allowed only during the succeeding seven days.

Contrary to the above, on March 5, 2010, a system engineer (SE) at Nine Mile Point Nuclear Station (NMP) received information that an immediate operability concern existed with the NMP #11 Reactor Building Emergency Ventilation System (RBEVS), and the SE failed to immediately notify his supervision or NMP Operations. Specifically, the SE learned on Friday, March 5, 2011, that the result of a #11 RBEVS laboratory carbon sample analysis did not show greater than or equal to 95 percent radioactive methyl iodide removal. However, the SE did not inform his supervision or NMP Operations of this result until Monday, March 8, 2011.

This is a Severity Level IV violation (Section 6.1).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned, and the date when full compliance was achieved is already adequately addressed on the docket in the letter transmitting this Notice of Violation (Notice). Therefore, you are not required to respond to this Notice. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to

Enclosure

respond, clearly mark your response as a "Reply to a Notice of Violation; EA-2010-265," and send your response to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region I, 475 Allendale Rd., King of Prussia, PA 19406, and a copy to the NRC Resident Inspector at Nine Mile Point, within 30 days of the date of the letter transmitting this Notice.

If you contest this enforcement action, you should follow the handling requirements provided above, and also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 24th day of March 2011

Enclosure