



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II

101 MARIETTA ST., N.W., SUITE 3100
ATLANTA, GEORGIA 30303

JUN 14 1983

Mississippi Power and Light Company
ATTN: Mr. J. B. Richard
Senior Vice President, Nuclear
P. O. Box 1640
Jackson, MS 39205

Gentlemen:

SUBJECT: PROPOSED CIVIL PENALTY ACTION: EA83-45 (REFERENCE INSPECTION
REPORT NO. 50-416/83-17)

A special inspection was conducted by the NRC Region II staff on April 29 and May 3-4, 1983, at the Grand Gulf Nuclear Plant to evaluate the regulatory significance of the failure to maintain access control into a vital area. The inspection revealed an apparent violation of NRC regulatory requirements which is presented in the Notice of Violation and Proposed Imposition of Civil Penalty enclosed as an Appendix to this letter. The NRC Inspector described this violation in a meeting with Mr. C. R. Hutchinson, Nuclear Support Manager, at the conclusion of the inspection. The violation and related NRC concerns were further discussed during an Enforcement Conference held in the Region II Office in Atlanta on May 11, 1983.

This violation, involving an unguarded vital area, is classified as a Severity Level III violation in accordance with Supplement III of the NRC Enforcement Policy. This violation is similar to a previous violation which was classified as Severity Level IV due to the operational status of your facility. Collectively, these violations are evidence of several security weaknesses, the primary one being the failure to communicate to your employees the importance of maintaining an adequate level of security. After consultation with the Director of the Office of Inspection and Enforcement, I have been authorized to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty in the amount of Forty Thousand Dollars. The violation has been categorized as Severity Level III as described in Supplement III of the NRC Enforcement Policy (10 CFR Part 2, Appendix C). We proposed to impose this civil penalty to emphasize the need for Mississippi Power and Light Company to ensure that its security program is stringently managed to prevent unauthorized entry into its protected and vital areas.

You are required to respond to the Appendix. You should follow the instructions specified in the Appendix in preparing your response and, in doing so, you should place all Safeguards Information as defined in 10 CFR 73.21 only in enclosures, so as to allow your letter to be placed in the Public Document Room. In your reply you should give particular attention to those actions designed to increase the effectiveness of the management of your security program, particularly with regard to delineation of responsibilities of security guards, in order to ensure continuing compliance with NRC requirements in this area. Your reply to the Appendix and the results of future inspections will be considered in determining whether further enforcement action is appropriate.

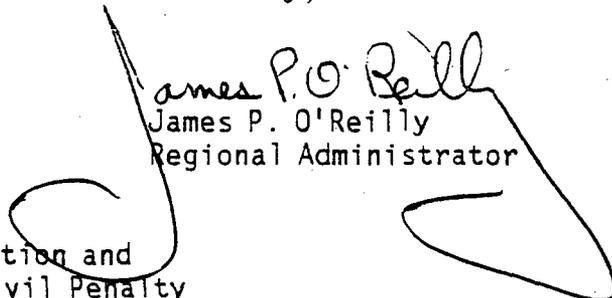
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In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice" Part 2, Title 10, Code of Federal Regulations, a copy of this letter and the enclosure will be placed in the NRC's Public Document Room.

The response directed by the Appendix is not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, PL 96-511.

Should you have any questions concerning this letter, we will be glad to discuss them with you.

Sincerely,


James P. O'Reilly
Regional Administrator

Enclosure:

1. Appendix A, Notice of Violation and Proposed Imposition of Civil Penalty

cc w/encl:

- C. K. McCoy, Plant Manager
- J. P. McGaughy, Vice President
Nuclear Production
- J. F. Fager, Vice President
Engineering and Construction

APPENDIX A
NOTICE OF VIOLATION

AND

PROPOSED IMPOSITION OF CIVIL PENALTY

Mississippi Power and Light Company
Grand Gulf 1

Docket No. 50-416
License No. NPF-13

On April 29, 1983, at approximately 12:00 noon, the NRC Senior Resident Inspector at the Grand Gulf facility approached the lower containment air lock for entry into the containment. The security guard at the entrance to this vital area was observed by the inspector to be asleep.

Subsequently, a special inspection conducted by a Region II security inspector revealed that the duration of the lack of access control to the containment was between five and nine minutes. After discovery, the licensee immediately removed the guard from his post and verified that no unauthorized persons were in the affected vital area.

To emphasize the need for Mississippi Power and Light Company to ensure that its security program is sufficiently stringent to prevent unauthorized entry to its vital areas, the NRC proposes the imposition of a civil penalty of Forty Thousand Dollars for this matter. In accordance with the NRC Enforcement Policy, 47 FR 9987 (March 9, 1982) and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended ("Act"), 42 U.S.C. 2282, PL 96-296 and 10 CFR 2.205, the particular violation and its associated penalty is set forth below:

License Condition Section 2.E of Facility Operating License No. NPF-13 requires the licensee to maintain in effect and fully implement all provisions of the Commission approved plans collectively entitled "Grand Gulf Station Physical Security Plan." Section 6.6.2.2 of the approved Physical Security Plan requires a member of the security force to be posted at an affected vital area portal to provide positive access control when there is a necessity to leave the door to the vital area open.

Contrary to the above, on April 29, 1983, the licensee failed to provide positive access control in that while the lower containment hatch was open, the security force member, posted to control access, was asleep.

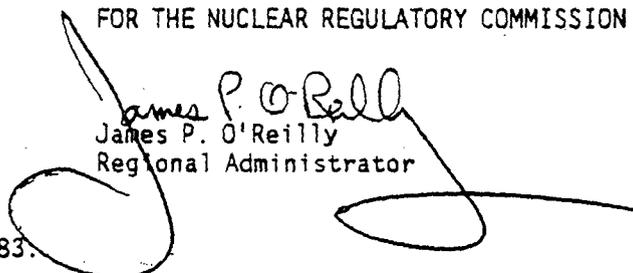
This is a Severity Level III Violation (Supplement III).
(Civil Penalty - \$40,000)

Pursuant to the provisions of 10 CFR 2.201, Mississippi Power and Light Company is hereby required to submit to the Director, Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555, a copy to the Regional Administrator, USNRC, Region II, within thirty days of the date of this Notice a written statement or explanation including: (1) admission or denial of the alleged violation; (2) the reasons for the violation if admitted; (3) the corrective steps which have been taken and the results achieved; (4) the corrective steps which will be taken to avoid further violations; and (5) the date when full compliance will be achieved. Consideration may be given to extending your response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Within the same time as provided for the response required above under 10 CFR 2.201 Mississippi Power and Light Company may pay the civil penalty in the amount of \$40,000 or may protest imposition of the civil penalty in whole or in part by a written answer. Should Mississippi Power and Light Company fail to answer within the time specified, the Director, Office of Inspection and Enforcement will issue an order imposing the civil penalty in the amount proposed above. Should Mississippi Power and Light Company elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, such answer may: (1) deny the violation listed in this Notice in whole in part; (2) demonstrate extenuating circumstances; (3) show error in this Notice; (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or part, such answer may request remission or mitigation of the penalty. In requesting mitigation of the proposed penalty, the five factors contained in Section IV (B) of 10 CFR Part 2, Appendix C should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. Mississippi Power and Light Company attention is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing civil penalty.

Upon failure to pay any civil penalty due, which has been subsequently determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234(c) of the Act, 42 U.S.C. 2282.

FOR THE NUCLEAR REGULATORY COMMISSION


James P. O'Reilly
Regional Administrator

Dated at Atlanta, Georgia
this 13 day of June 1983.



MISSISSIPPI POWER & LIGHT COMPANY

Helping Build Mississippi

P. O. BOX 1640, JACKSON, MISSISSIPPI 39205

July 12, 1983

J. B. RICHARD
SENIOR VICE PRESIDENT - NUCLEAR

Mr. Richard C. DeYoung, Director
Office of Inspection & Enforcement
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Mr. DeYoung:

SUBJECT: Grand Gulf Nuclear Station
Unit 1
License No. NPF-13
Docket No. 50-416
File: 0260/15525/15526
Proposed Civil Penalty Action
(Inspection Report No.
50-416/83-17)
AECM-83/0388

References: 1. MAEC-83/0182, 6/13/83
2. MAEC-83/0185, 6/13/83

Reference 1 transmitted to MP&L a Notice of Violation and Proposed Imposition of Civil Penalty which resulted from findings contained in your Report No. 50-416/83-17 which was transmitted by Reference 2.

MP&L suggests that the magnitude of the proposed civil penalty exceeds the guidelines of 10 CFR, Part 2, Appendix C. Enclosure I to this letter sets forth the reasons MP&L believes the proposed civil penalty should be recalculated to comply with the Appendix C guidelines. MP&L submits that the proposed civil penalty should be recalculated, as set forth in Enclosure I hereto, and that in light of the mitigation factors discussed in Enclosure III hereto, this recalculated base civil penalty should then be adjusted to a lower amount.

Enclosure II to this letter is MP&L's response to Notice of Violation 50-416/83-17-01. Enclosure II contains Safeguards Information.

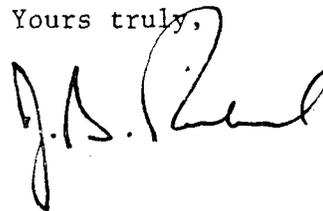
MP&L requests mitigation of the proposed civil penalty, as recalculated pursuant to Enclosure I hereto, for reasons discussed in Enclosure III. Enclosure III contains Safeguards Information.

While MP&L fully agrees with the NRC staff concerning the importance of security at nuclear power plants, we believe the proposed civil penalty, as recalculated pursuant to Enclosure I hereto, to be excessive for the reasons discussed in Enclosure III. MP&L, its employees, and its contractors are vitally aware of the importance of maintaining adequate and effective security

Member Middle South Utilities System

at all times at the Grand Gulf Nuclear Station and will continue to do their utmost to properly implement the facility security system.

Yours truly,



JBR:rg
Enclosures

cc: Mr. R. B. McGehee (w/o)
Mr. T. B. Conner (w/o)
Mr. G. B. Taylor (w/o)

Mr. J. P. O'Reilly, Regional Administrator (w/a)
Office of Inspection and Enforcement
U.S. Nuclear Regulatory Commission
Region II
101 Marietta St., N.W., Suite 2900
Atlanta, Georgia 30303

Recalculation of Proposed Civil Penalty

The violation was classified by the NRC as a Severity Level III (Supplement III) with a proposed civil penalty of \$40,000 in accordance with the NRC Enforcement Policy, 47 Fed. Reg. 9967 (March 9, 1982), which is reproduced as Appendix C to 10 C.F.R. Part 2. Supplement III to Appendix C is entitled "Severity Categories, Safeguards."

In computing the civil penalty in accordance with the NRC Enforcement Policy, the base civil penalty is first determined and then adjusted for the actual severity Level. Table 1A, "Base Civil Penalties (For Severity I Violations)" states that for a safeguards violation by a power reactor licensee, the base civil penalty is \$80,000 for a Category 1 licensee or \$40,000 for a Noncategory 1 licensee. Footnote 1 to the table defines Category 1 licensees as those who are authorized to possess formula quantities of strategic special nuclear material (10 C.F.R. 73.2 bb).

Section 73.2 defines strategic special nuclear material and formula quantity as follows:

(aa) "Strategic special nuclear material" means uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope), uranium-233, or plutonium.

(bb) "Formula quantity" means strategic special nuclear material in any combination in a quantity of 5,000 grams or more computed by the formula, $\text{grams} = (\text{grams contained U-235}) + 2.5 (\text{grams U-233} + \text{grams plutonium})$.

Section 73.6, "Exemptions of certain quantities and kinds of special nuclear material" which is relevant to the discussion, reads as follows:

§73.6 Exemptions of certain quantities and kinds of special nuclear material.

A licensee is exempt from the requirements of §§73.20, 73.25, 73.26, 73.27, 73.45, 73.46, 73.70 and 73.72 with respect to the following special nuclear material:

(a) Uranium-235 contained in uranium enriched to less than 20 percent in the U-235 isotope:

(b) Special nuclear material which is not readily separable from other radioactive material and which has a total external radiation dose rate in excess of 100 rems per hour at a distance of 3 feet from any accessible surface without intervening shielding; and

(c) Special nuclear material in a quantity not exceeding 350 grams of uranium-235, uranium-233, plutonium, or a combination thereof, possessed in any analytical, research, quality control, metallurgical or electronic laboratory.

It is Licensee's position that Grand Gulf, Unit 1 should be classified as a Noncategory 1 licensee in determining the amount of the proposed civil penalty for the following reasons.

In order to give operative effect to the distinction made in Table 1A between Category 1 and Noncategory 1 power reactor licensees, the difference in penalties associated with each must represent a corresponding difference in the potential significance of a safeguard or security plan breakdown between the two categories of licensees. The Commission has already determined that for power reactor licensees falling within either 10 C.F.R. §73.6(a) or (b), which cover all light water reactors, the potential consequences of safeguards deficiencies are less than consequences that might result from a violation of requirements for licensees which possess formula quantities of special nuclear materials. Therefore, a number of the substantive provisions of Part 73 do not apply to the category of Part 73.6(a) and (b) licensees. The Commission's regulations under Part 73 thereby distinguish between light water reactors, which produce strategic SNM only in operation, and other reactors such as high temperature, gas cooled reactors ("HTGR"), which have strategic SNM at fuel loading.

Unless this distinction is borne in mind, the difference between a Category 1 and Noncategory 1 licensee is meaningless inasmuch as all modern power reactors operating at full power generate formula quantities of strategic SNM, i.e., plutonium, and such licensees store formula quantities of SNM onsite either in the core or in the spent fuel pool. From a safeguards point of view, however, the NRC has recognized that such plutonium, which is not readily separable from the remainder of the spent fuel and has a high external radiation dose rate, is less significant than strategic SNM in a reactor containing formula quantities of strategic special nuclear material in the initial core, e.g., an HTGR, which is more vulnerable to illegal diversion. Thus, light water power reactors are subject to a base \$40,000 civil penalty.

In any event, the NRC has granted Grand Gulf only a 5% license. Based upon operation to date, Grand Gulf, Unit 1 reactor core contains only a small fraction of formula quantities of strategic SNM. Thus, for this additional reason, Grand Gulf cannot be considered a Category 1 licensee.

Inasmuch as the NRC Staff has classified the violation as a Severity Level III, using Table 1B, "Base Civil Penalty," the actual penalty would be 50% of the amount listed in Table 1A, i.e., 50% of \$40,000, or \$20,000. Licensee submits that this is the proper dollar amount for the violation charged by the NRC.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

AUG 18 1983

Docket No. 50-416
License No. NPF-13
EA 83-45

Mississippi Power and Light Company
ATTN: Mr. J. B. Richard
Senior Vice President, Nuclear
P. O. Box 1640
Jackson, MS 39205

Gentlemen:

SUBJECT: CIVIL PENALTY EA 83-45
REFERENCE REPORT NO. 50-416/83-17

This will acknowledge receipt of your letter dated July 12, 1983, in response to the Notice of Violation and Proposed Imposition of Civil Penalty sent to you by letter dated June 13, 1983 from the Regional Administrator, Region II. The June 13, 1983 letter concerned a violation of safeguards requirements which was identified by the NRC Senior Resident Inspector on April 29, 1983.

After careful consideration of your response, and for the reasons given in the enclosed Order and Appendix, we have concluded that the violation did occur as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty. We have also given careful consideration to your request for mitigation of the proposed penalty and have concluded that no adequate reasons have been stated as to why the penalty should be mitigated. However, we have agreed with your suggestion that the base penalty amount used in the original calculation of the penalty was incorrect. The use of the correct calculation results in a 50% reduction in the proposed civil penalty. Accordingly, we hereby serve Mississippi Power and Light Company with the enclosed Order imposing a civil penalty in the amount of Twenty Thousand Dollars.

The actions taken to correct the violation and to prevent its recurrence will be evaluated during future inspections of your facilities.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard C. DeYoung".

Richard C. DeYoung, Director
Office of Inspection and Enforcement

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of)

Mississippi Power & Light Company)
(Grand Gulf Nuclear Station Unit 1))

Docket No. 50-416
License No. NPF13
EA 83-45

ORDER IMPOSING MONETARY CIVIL PENALTY

I

Mississippi Power & Light Company, P. O. Box 1640, Jackson, Mississippi 39205 (the "Licensee") is the holder of License No. NPF-13 (the "License") issued by the Nuclear Regulatory Commission (the "Commission"). The license authorizes operation of the Grand Gulf Nuclear Station Unit 1 facility in Claiborne County, Mississippi under certain specified conditions and is due to expire on September 4, 2014.

II

An inspection of the licensee's activities under the license was conducted on April 29 and May 3 - 4, 1983 at the Grand Gulf Nuclear Station Unit 1. As a result of this inspection, it appears that the licensee has not conducted its activities in full compliance with the conditions of its license and with the requirements of Commission regulations. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated June 13, 1983. The Notice stated the nature of the violation, license conditions which the licensee has violated, and the amount of the civil penalty proposed for the violation. An answer dated July 12, 1983 to the Notice of Violation and Proposed Imposition of Civil Penalty was received from the licensee.

III

Upon consideration of the answer received and the statements of fact, explanation, and arguments for mitigation of the proposed civil penalty contained therein, as set forth in the appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalty proposed for the violation in the Notice of Violation and Proposed Imposition of Civil Penalty should be reduced to reflect the proper base amount as noted in Table 1A of 10 CFR Part 2, Appendix C, and should be imposed. As explained in the Attachment to this Order, no mitigation of the base penalty is warranted.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U. S. C. 2282, PL 96-295), and 10 CFR 2.205, IT IS HEREBY ORDERED THAT:

The licensee pay a civil penalty in the amount of Twenty Thousand Dollars within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

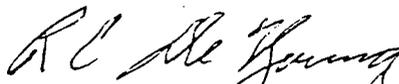
The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection

and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Should the licensee fail to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

- (a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above, and
- (b) Whether on the basis of such violation this Order shall be sustained.

FOR THE NUCLEAR REGULATORY COMMISSION



Richard C. DeYoung, Director
Office of Inspection and Enforcement

Dated at Bethesda, Maryland
this 15th day of August 1983

APPENDIX

EVALUATION AND CONCLUSIONS

The violation and associated civil penalty as presented in the Notice of Violation (dated June 13, 1983) are restated below. The licensee admitted the violation in its response of July 12, 1983. This response is summarized, and the NRC evaluation and conclusions regarding the response are presented.

Statement of Violation

License Condition Section 2.E of Facility Operating License No. NPF-13 requires the licensee to maintain in effect and fully implement all provisions of the Commission approved plans collectively entitled "Grand Gulf Station Physical Security Plan." Section 6.6.2.2 of the approved Physical Security Plan requires a member of the security force to be posted at an affected vital area portal to provide positive access control when there is a necessity to leave the door to a vital area open.

Contrary to the above, on April 29, 1983, the licensee failed to provide positive access control in that the security force member posted at the lower containment hatch to control access was observed to be asleep.

This is a Severity Level III Violation (Supplement III)
(Civil Penalty \$40,000).

Reduction of Base Civil Penalty Amount

1. Licensee Response

Mississippi Power and Light Company (MP&L) stated that the magnitude of the proposed civil penalty exceeded the guidelines of 10 CFR Part 2, Appendix C. MP&L contends that the NRC Enforcement Policy classifies light water reactors as noncategory 1 safeguards licensees for the purpose of determining enforcement sanctions. Also, MP&L suggests that because the Grand Gulf Unit 1 had specific limitations in the license in effect at the time the violation occurred, the noncategory 1 safeguards classification is doubly applicable.

2. NRC Evaluation and Conclusion

The intent of the Base Civil Penalty Table in the Enforcement Policy (Table 1A) is that power reactors of all types be considered category 1 safeguards licensees for enforcement purposes. The basis of this intent lies not so much in the strategic significance of the material present, but in the possible consequences to the public health and safety should sabotage, rather than theft, occur. The category 1 versus noncategory 1 differentiation is based on the potential consequences of theft of a formula quantity of SNM, and the exemptions (10 CFR 73.6) pointed out by the licensee address this concern.

Theft of irradiated or spent fuel from a power reactor is highly unlikely, but the potential consequences of an act of radiological sabotage are very serious.

Because the licensee had a 5% power limitation on the operation of Grand Gulf Unit-1 at the time of the event, the staff agrees that sufficient fission product inventory to pose a serious threat to the public health and safety had not accumulated in the reactor core. Therefore, the staff agrees with the licensee that for this limited case a noncategory 1 safeguards classification is appropriate and that the base civil penalty under Table 1A of the NRC Enforcement Policy is \$40,000. Application of the appropriate factor for a Severity Level III violation reduces this amount by 50% to \$20,000 before application of any mitigation or escalation factors provided in the policy.

It is important to note that the reduction discussed above is not based on application of the mitigation factors in the policy, but rather the proper application of the Base Civil Penalty Table to an unusual case.

Request for Mitigation of Proposed Civil Penalty

1. MP&L requests mitigation due to the licensee's good record of prompt identification and reporting on other types of events.

NRC Evaluation:

The violation was discovered by the NRC Senior Resident Inspector. The NRC Enforcement Policy, 10 CFR 2, Appendix C, is intended to recognize and encourage licensee management and administrative systems designed to detect and deter situations which constitute violations of NRC requirements by allowing a reduction in the amount of a civil penalty when a licensee promptly identifies and reports a violation. This was not the case in this violation since the NRC identified the violation.

2. MP&L requests mitigation for the corrective actions taken and believes them to be comprehensive.

NRC Evaluation:

While the staff evaluation of the licensee's corrective actions reveals that these actions were responsive and may be expected to reduce the frequency of occurrence of this type of violation in the future, the actions taken were no more than expected. In addition, prompting from the NRC was required to convince the licensee that some of the program changes were needed. Also, the licensee told the NRC that the individual who was sleeping while on duty as a vital area access control guard had been found on a previous occasion to be in a posture indicating that he was possibly asleep. It is understood by the staff that for apparently sound reasons, MP&L chose not to discipline the individual for that occurrence, but this should have warned the licensee

of a potential for a future violation and the licensee should have taken preventive measures at that time. Such measures would presumably have been programmatic in nature rather than taking the form of individual action.

3. MP&L believes mitigation is warranted because the violation was not indicative of a programmatic or managerial deficiency.

NRC Evaluation:

As noted in item 2, above, programmatic problems were detected. Also, the Enforcement Policy does not provide specifically for mitigation on the basis of a lack of programmatic or managerial deficiency. However, when such a deficiency is profound, the amount of the penalty may be increased as much as 25%.

4. MP&L believes the penalty should be mitigated because no unauthorized access to the vital area was detected.

NRC Evaluation:

The NRC notes that no unauthorized access to a vital area occurred, but that in itself is not sufficient cause for mitigation. The Enforcement Policy provides a specific example of this type of violation as noted in Supplement III.C.1 and lists the violation as a Severity Level III because the potential for a serious safeguards incident existed. Had there been an actual unauthorized entry, the Severity Level may have been higher.

NRC Conclusion

Further mitigation of the amount of Proposed Civil Penalty is not warranted for the reasons stated above.