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SUBJECT: Forwards opposition of licensee Niagra Mohawk Power Corp to petition under 10CFR2.206 re facility.

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50-220

October 25, 1990

Dr. Thomas E. Murley
Director, Office of Nuclear Reactor
Regulation
United States Nuclear Regulatory
Commission
Washington, D.C. 20555

Re: Section 2.206 Petition by Rosemary S. Pooler
Regarding Restart of Nine Mile Point, Unit 1,
Docket No. 50-220

Dear Dr. Murley:

By letter dated July 26, 1990, Ms. Rosemary S. Pooler petitioned the NRC pursuant to 10 C.F.R. §2.206 to institute a proceeding to modify, suspend and/or revoke the license of Niagara Mohawk Power Corporation to operate Nine Mile Point, Unit 1 until the conditions specified in the petition have been met.

In your letter to Ms. Pooler, dated August 31, 1990, you stated that, on behalf of the Nuclear Regulatory Commission, you would review the specific questions raised by the petition's attachments and respond to them in a decision to be made in accordance with 10 C.F.R. §2.206.

The licensee in the captioned matter, Niagara Mohawk Power Corporation, opposes the institution of proceedings to consider the requested action. As discussed in the attached "Opposition of Licensee Niagara Mohawk Power Corporation to Petition Under 10 C.F.R. §2.206 Regarding Nine Mile Point, Unit 1," the petition by Ms. Pooler is insufficient to warrant initiation of proceedings under 10 C.F.R. §2.202 because it fails to do more than to recite concerns already known to the NRC. The specific issues raised by

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the petition are well understood by the Commissioners as well as those members of the NRC Staff involved with the authorization to restart Nine Mile Point, Unit 1. Moreover, matters of concern to the NRC have already been fully and satisfactorily addressed by the licensee through mutual efforts in the restart program for Nine Mile Point, Unit 1. Accordingly, the petition fails to raise any significant issue of public health and safety and should be denied.

If you have any questions concerning this memorandum or require additional information, please feel free to contact me.

Sincerely,

Mark J. Wetterhahn
Counsel for Niagara Mohawk
Power Corporation

MJW:sdd
Enclosure

OPPOSITION BY LICENSEE
NIAGARA MOHAWK POWER CORPORATION TO PETITION UNDER
10 C.F.R. §2.206 BY ROSEMARY S. POOLER

NINE MILE POINT, UNIT 1
DOCKET NO. 50-220

I. Factual Background

As the Nuclear Regulatory Commission ("NRC" or "Commission") is aware, Nine Mile Point, Unit 1 was shut down in December 1987 due to excessive vibration in the feedwater system. During the shutdown, Niagara Mohawk Power Corporation ("Niagara Mohawk" or "the Licensee") undertook to resolve problems with its Inservice Inspection Program and other technical and programmatic deficiencies identified by Niagara Mohawk and the NRC in the course of the outage. Those deficiencies led to the issuance of the NRC's Confirmatory Action Letter (CAL 88-17) dated July 14, 1988.

In accordance with the Confirmatory Action Letter, Niagara Mohawk prepared and submitted for the NRC's consideration a comprehensive Restart Action Plan, which identified five underlying root causes for management effectiveness problems and eighteen specific technical issues, and which also discussed anticipated corrective actions. While the Restart Action Plan's corrective actions were being implemented, Niagara Mohawk

assembled a Restart Review Panel to perform a self-assessment of the Licensee's readiness for restart. As the NRC is aware, a Restart Readiness Report was submitted by the Restart Review Panel to Licensee Chairman and CEO William J. Donlon on September 7, 1989 and was submitted to the NRC on September 8, 1989.

The Restart Readiness Report reflects the broad experience and extensive knowledge of Niagara Mohawk and non-Company experts regarding management practices and nuclear operation, maintenance, engineering, quality assurance and regulatory matters. This Report has been carefully reviewed by the NRC and discussed in depth with Office of Nuclear Reactor Regulation and Region I personnel. On the basis of their respective reviews and their evaluation of the multitude of issues, views and conclusions encompassed by the Restart Readiness Report and related documentation, the Licensee and NRC Staff made a presentation to the Commission at a meeting pertaining to the restart of Unit 1 on May 14, 1990. Both the Licensee and Staff took the position that, subject to closing out a few pending matters (such as publication of the inspection report from the NRC's Readiness Assessment Team), the Licensee should be permitted to restart Unit 1. The Commission indicated that, subject to its receipt of an updated status report and final consultation with the NRC Staff, it would favorably consider such authorization.

By letter dated July 13, 1990, Niagara Mohawk notified Region I of the NRC that it had satisfied the conditions of the Confirmatory Action Letter for restart approval and was ready to resume safe and effective operation of Nine Mile Point, Unit 1. On July 27, 1990, the Regional Administrator of Region I authorized restart of the unit. The plant has been returned to operation and is now in the midst of a power ascension program designed to confirm the operability of equipment and the effectiveness of plant management. Phase 1 of the power ascension program, operation at 25% power, has been successfully completed. Phase 2 of the program, operation at 75% power, is nearing completion.

In the interim, however, the NRC received from Rosemary S. Pooler, identified as the Vice President for Legal Affairs of the Atlantic States Legal Foundation, Inc., a letter dated July 26, 1990, with several attachments, requesting that her correspondence be treated as a petition pursuant to 10 C.F.R. §2.206.[1] Ms. Pooler specifically requested the NRC to institute

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1/ Although Ms. Pooler identifies herself as an officer of the Atlantic States Legal Foundation, Inc. and her letter appears on organizational letterhead, Ms. Pooler does not identify the Foundation as the petitioner and does not state that the Foundation has requested and authorized her to seek this relief. Ms. Pooler sent another letter on the same letterhead to the Commission, also dated July 26, 1990, raising similar points regarding the restart of Nine Mile Point, Unit 1. In that letter, however, Ms. Pooler refers to an unincorporated association of residents of central New York called Retire Nine Mile 1 as "[m]y clients." Because it

(Footnote continued on next page)

a proceeding to modify, suspend, and/or revoke Niagara Mohawk's license to operate Nine Mile Point, Unit 1 "until such time as the torus is repaired, the company implements every outstanding generic letter and bulletin relating to safety and until such time as the company achieves an inspection report that demonstrates that it has the requisite management capability to operate a nuclear power plant."

By letter dated August 31, 1990, the Director, Office of Nuclear Reactor Regulation, acknowledged receipt of this petition and stated that he would review and respond to the various questions raised by the attachments to the petition as part of his decision on the request for relief. Concurrently, the NRC published notice of its receipt of the petition in the Federal Register.[2] Based upon his evaluation of Ms. Pooler's letter and attachments, the Director identified three basic allegations:

(1) there is continuing evidence of thinning of the torus walls, and therefore, the plant should not be allowed to restart before the torus is repaired;

(2) the most recent Systematic Assessment of Licensee Performance ("SALP") report shows enduring evidence of managerial incompetence at NMP-1; and

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(Footnote continued from previous page)
is unclear whether or in what capacity Ms. Pooler represents either entity with respect to the petition for relief under Section 2.206, we shall refer to her as the petitioner.

2/ 55 Fed. Reg. 38763 (September 20, 1990).

(3) the history of Niagara Mohawk's management, together with the specific questions relating to restart, call for a different standard at NMP-1 than that applied to other plants with regard to implementation of all safety issues from generic letters and bulletins.

II. Legal Overview

The legal requirements for disposition of a petition under Section 2.206 by the Director are now clearly established and well understood. Of course, the overriding consideration in the investigation of any activity subject to its jurisdiction, including those which become the subject of a petition under Section 2.206, is "to assure adequate protection of the public health and safety in the use of radioactive material."[3]

In this instance, the petitioner has done nothing more than recite issues and refer to documents already known to the NRC, including those which were prepared specifically to respond to questions raised by petitioner herself. Inasmuch as the NRC is already "well aware of the matters referred to" by petitioner,[4] and the petition "only restates information or references documentation of which the NRC was already aware,"[5] the petition

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3/ **Union Electric Company** (Callaway Plant, Unit 1), DD-85-7, 21 NRC 1552, 1555 (1985), **citing Power Reactor Development Co. v. International Union of Electrical, Radio and Machine Workers**, 367 U.S. 396, 406 (1961).

4/ **Philadelphia Electric Company** (Limerick Generating Station, Units 1 and 2), DD-85-11, 22 NRC 149, 153 (1985).

5/ **Id.**

serves no useful purpose. It certainly "provides no facts or specific information to suggest that the Licensee is failing to undertake its obligations"[6] as imposed by the terms and conditions of its license or, in this instance, the Confirmatory Action Letter.

In a matter such as this, where the NRC has maintained longstanding vigilance of the Licensee's remedial actions to correct identified and potential safety issues, a Section 2.206 petition raising the same issues is simply irrelevant. Irrespective of the petition or any point it has raised, the NRC has already stated its intention to "continue to observe and evaluate the Licensee's performance" through inspections, meetings with the Licensee and receipt of site information[7] and, indeed, has done so during the course of the power ascension program.

Although petitioner has shown concern over the resolution of particular issues, her concern in no way translates into a substantial issue of radiological health and safety. No technical or scientific data of any kind, much less reliable and verifiable data, have been furnished to cast any doubt upon the findings and conclusions of the Licensee in its Restart Readiness

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6/ **Limerick**, DD-85-8, 21 NRC 1561, 1567 (1985). See also **Limerick**, DD-85-18, 22 NRC 870, 872 (1985).

7/ **Boston Edison Company** (Pilgrim Nuclear Generating Station), DD-88-16, 28 NRC 483, 485 (1988).

Report and related documents, or to call into question the views and recommendations of the NRC Staff presented orally or in writing to the Commission. The Director need give serious consideration to a Section 2.206 petition only "so long as the request specifies the action sought and sets forth the facts that constitute the basis of the request."[8] Because the instant petition clearly fails to do so, it should be denied.

Discussion

I. Torus Wall Thinning

As the NRC is aware, the Licensee has been monitoring the thickness of the torus wall at Nine Mile Point, Unit 1 since the mid-1970's. During an inspection in March-April 1988, the NRC performed independent measurements of the torus wall thickness. The determined thicknesses at the points measured were close to minimum wall requirements according to original stress calculations and the Licensee's Mark I containment program calculations. To resolve NRC concerns regarding continued operation of the plant until the next outage following restart, the Licensee performed extensive wall thickness measurements at the most highly stressed area at each of the 20 bays comprising the torus. The inspections demonstrated that continued operation was justified based on margins between actual wall thickness and

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8/ Washington Public Power Supply System (WPPSS Nuclear Project Nos. 1 & 2), CLI-82-29, 16 NRC 1221, 1228 (1982).

minimum requirements, local pitting versus general area reduction, and actual mill test report certifications.[9]

As a result of this documentation, the NRC and Licensee reached an understanding that the only remaining issue was to clarify the Licensee's commitment as to the frequency of surveillance of the torus wall thickness by periodic measurement. Accordingly, a comprehensive monitoring program was established whereby extensive measurements are now taken every six months.[10] The Licensee subsequently provided the NRC with its long-term program to resolve the torus wall thinning issue, having determined that the use of stiffening rings appears to be the best option.[11] The stiffening rings will be placed in the span between each of the supports for the torus. The rings will be placed around the outside circumference of the torus, thereby increasing the stiffness for that section. The installation of retaining rings, which has been discussed with the NRC Staff, is planned during the 1992 refueling outage.

During the completion of the Licensee's Restart Action Plan, the Licensee nonetheless performed additional thickness measurements and more rigorous analyses on the data. Interior

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9/ See Letter dated May 27, 1988 (NMP1L 0260).

10/ See Letter dated June 17, 1988 (NMP1L 0272).

11/ See Letters dated February 14, 1989 (NMP1L 0358) and November 22, 1989 (NMP1L 0458).

inspections included visual, photographic and surface impression. Area averaged ultrasonic measurements of the thickness of each plate making up the bottom, mid-bay portion of twenty torus bays were taken. This analysis concluded that the torus wall thickness is adequate for more than the next operating cycle.

The NRC reviewed the Licensee's analysis and concluded that the plant could be safely operated one more fuel cycle with surveillances of the torus at intervals not greater than six months to which the Licensee had previously committed.[12] Based upon its inspections and review, the NRC "concluded that the Unit 1 containment torus is acceptable for plant restart and operation in its current condition," subject to "torus inspections every six months or less until other actions have been taken to assure long term integrity of the containment torus."[13] On the basis of the entire record to date, the Licensee's Restart Review Panel similarly concluded that the effectiveness of the corrective actions in this area support restart of Unit 1.

Contrary to the petitioner's assertions in her letter of July 26, 1990 to the Commission, the data and analyses conducted by the Licensee and reviewed by the NRC are highly accurate and demonstrate that the rate of corrosion is not as accelerated as

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12/ See Inspection Report Nos. 50-220/89-28 and 50-410/89-24 at p. 2.

13/ Letter from Marvin W. Hodges, Director, Division of Reactor Safety, NRC Region I (January 29, 1990)

originally believed. Further, the Licensee explained at the meeting with the Commission on May 14, 1990 that more recent measurements were taken at the bottom of the torus because "[t]he weakest points in the torus are at the . . . bottom . . . of the torus, and that is where we take our measurements in terms of wall thickness, such that we make sure and monitor those areas the closest" (Tr. 75-76).

Recent measurements of the torus confirm the Licensee's original calculations as conservative. The Licensee's most recent six-month torus wall measurement data of August 1990 indicate no single measurement below the minimum required and no change in predicted corrosion rate. Moreover, the Licensee's trending analysis indicates no clear deviation in corrosion rate from that predicted in August 1989. The Commission therefore has ample evidence that the corrective actions of the Licensee related to torus wall thinning are fully adequate to protect public health and safety.

II. Competence of Niagara Mohawk Power Corporation Management

At the earliest stages in developing the Restart Action Plan, Niagara Mohawk recognized that root cause issues of management skills and leadership were implicated by each of the technical problems identified in the process of self-assessment, and that changes in management organization and approach were essential to effective corrective actions. By focusing on the operational

history of Nine Mile Point, Unit 1 to identify issues and trends, five underlying root causes with management implications were identified.[14]

At the conclusion of its self-assessment of the corrective actions related to these five underlying root causes and related technical issues, the Licensee's Restart Review Panel was able to

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14/ As stated in the Restart Action Plan at p. I-3, these root causes are:

> 1. The management tasks of planning and goal setting have not kept pace with the changing needs of the Nuclear Division and with changes within the nuclear industry.
>
> 2. The process for identifying and resolving issues before they become regulatory concerns was less than adequate and that there was not an integrated or consistent process used to identify, analyze, correct, and assess problems in a timely way.
>
> 3. Management's technical focus has created an organizational culture that diverts attention away from the needs and effective use of employees.
>
> 4. Standards of performance have not been defined or described sufficiently for effective assessment, and self-assessments have not been consistent or effective.
>
> 5. Lack of effective teamwork within the Nuclear Division and with support organizations is evidenced by lack of coordination, cooperation, and communication in carrying out responsibilities.

conclude that each root cause had been addressed by effective corrective action. Specifically, the Panel determined that:

> 1. Management has characterized and communicated the direction for the Nuclear Division through vision, mission and goal statements. Policies and procedures have been established to provide a continuing process of planning, to assure that plant operations will be conducted in compliance with regulations and in a safe and reliable manner,
>
> 2. Performance-limiting deficiencies have been identified and resolved, and the detailed plan for implementing an improved problem-solving process is in place,
>
> 3. The upper levels of the Nuclear Division have adopted, and are using, the vision, the goals, and Standards of Performance in day-to-day operations and in addressing employee needs and concerns,
>
> 4. Standards of Performance, with emphasis on achieving results, have been identified and communicated, and a plan for developing a long-term Nuclear self-assessment process is in place,
>
> 5. Progress toward effective teamwork is being demonstrated by working together to make decisions and solve problems.[15]

The Panel also found that the development and articulation of clearly stated plans and objectives by senior management had permeated all levels of management throughout the Company. The Panel stated:

> The self-assessment also confirms that Niagara Mohawk's current line management has

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15/ Restart Readiness Report, Executive Summary at 2 (September 1989).

> the appropriate leadership and management skills to prevent, or detect and correct, future problems. The assessment found that the Nuclear Division and support organizations have adopted high standards of performance which are being demonstrated in the identification and effective resolution of problems. The assessment also found that the corrective actions had improved the effectiveness of planning and teamwork in making decisions and solving problems related to performance limiting deficiencies. Finally, the assessment identified programs and policies that had been developed to continue to enhance the assessment and improvement of the activities of the Nuclear Division.[16]

Niagara Mohawk's senior management has been an integral part of the restart effort. Leadership and direction for the restart effort has been provided directly by the Chief Executive Officer and the President, both of whom directly and substantially participated in the organization and review of the restart effort. By its involvement, senior management assured that corrective measures were aggressively pursued, documented and verified, and that all levels of Niagara Mohawk personnel who had worked to define root causes and corresponding corrective actions themselves subscribed to the course of action embodied by the Restart Action Plan.

In the area of planning and goal setting, significant corrective actions were taken, including the creation of a Nuclear Division Integrated Priority System and a Nuclear

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16/ Id. at 3.

Improvement Program. Also, a policy/procedure was developed to provide specific guidance to assist Nuclear Division planning by defining responsibilities for the creation, implementation and tracking of specific programs to support Nuclear Division goals. The Licensee's assessment determined that senior management, by its example, "is continually reinforcing the importance of using the Nuclear Division vision, goals and Standards of Performance to focus department, group and individual work activities at all levels."[17]

The assessment further determined that the Nuclear Division has made significant progress toward improving the problem solving process and has established programs which will result in further enhancements, including the integration of individual systems for identification and tracking of problems, assigning priorities through an Integrated Priority System, and the development of a new framework for assuring accountability and responsibility for problem resolution.

Another area of major concern to senior management has been organizational culture. The assessment determined that current work performance and attitude demonstrate a positive change in culture, which has been created by increased interaction between management and employees (e.g., Management by Walking Around), greater solicitation of employee's criticism and participation in

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17/ Id. at p. IV-1.

problem-solving, "town hall meetings" within the Nuclear Division, and, in general, an increased display by management of teamwork, self-assessment and dedication to the pursuit of excellence.

Another critical area is teamwork. The assessment found among all employees a new awareness that effective coordination, communication, and cooperation are essential, and observed that individual contributions previously taken for granted were now being recognized as a model for good teamwork. The Panel reported that virtually everyone interviewed agreed that teamwork had improved in the last year.

In addition to addressing the five root causes, the process of restart self-assessment was aimed at enhancing the Licensee's ability to prevent, detect and correct future deficiencies that could jeopardize safe operation of the plant through implementation of a Nuclear Improvement Program. Management's implementation of the Nuclear Improvement Program is therefore additional evidence of its improved leadership and commitment to excellence in the nuclear industry. The program is designed to expand existing assessment programs and integrate them into concepts established during the restart effort; to establish a separate functional Independent Assessment Group; and to continue the general practice of internal assessment activities while the permanent program is being established.

In general, the restart self-assessment confirmed that Niagara Mohawk's current senior and line management have the leadership and management skills necessary to prevent or detect and correct future problems. As senior management advised the Commission at the meeting on May 14, 1990, all employees at Niagara Mohawk "are developing new attitudes through cultural changes using the chain of command and the standards of performance. Problems are being raised to management in a timely way and improved communications exist at each level in the division, both in and among different groups" (Tr. 40).

The licensee's self-assessment findings and conclusions were confirmed by the NRC's Readiness Assessment Team Inspection ("RATI") at Nine Mile Point, Unit 1, conducted April 30 through May 11, 1990. The NRC reported the overall conclusions of the RATI as follows:

> Overall, the team found the material condition of the plant to be acceptable and the plant organization capable of managing activities associated with plant startup and operation. The team concluded that corrective actions taken by Niagara Mohawk have effected appropriate changes in the control and performance of plant activities, and in the analysis and assessment of plant events to resolve the [Underlying Root Causes]. The team also concluded from the observation of plant activities performed by Niagara Mohawk during the inspection that the implementation of these changes has been sufficiently effective to support the restart of the unit.[18]

18/ Letter from William F. Kane, Director, Division of Reactor Projects, NRC Region I (June 1, 1990).

The NRC found during its RATI that Niagara Mohawk had made adequate progress in the resolution of the two underlying root causes for which improvement was deemed necessary, and that Niagara Mohawk had sustained its level of performance in the other three root cause areas for which progress had been deemed satisfactory. The NRC concluded that "Niagara Mohawk has continued to improve its performance in each of the functional areas evaluated during the inspection and particularly in those functional areas which were rated Category 3 in the most recent SALP period which ended in February 1990."[19] In conducting the RATI, the NRC observed "noticeable improvements in the operations, maintenance and surveillance, and safety assessment and quality verification areas," and that "an overall positive attitude change has been adopted consistent with the standards of performance described in Niagara Mohawk's Restart Action Plan."[20] The NRC concluded that the plant was in "an acceptable condition to support plant operation," and that, with the exception of scheduled testing and startup preparation activities, there are "no impediments to the restart of Nine Mile Point Unit 1."[21] These improvements reflected the enhanced capability of

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19/ Inspection Report No. 50-220/90-80, RATI at 1-2.

20/ Id. at 2.

21/ Id.

management to provide leadership and instill a sense of teamwork at the plant.

At the Commission meeting, the NRC Staff restated the improvements it had observed in management organization and performance. In particular, Dr. Murley, the Director of Nuclear Reactor Regulation, reported the most recent results of an inspection by the Staff's Readiness Assessment Team at Nine Mile Point Unit 1:

> The team had found many improvements in the overall management and conduct of operations at Nine Mile Point 1 since the integrated assessment team inspection last October and since the period covered by the latest SALP report. (Tr. 83).

Dr. Murley reported improvement in three particular areas, namely, the attitude of plant staff toward safety, especially with regard to the need to have and follow procedures, better teamwork among the plant's organizations and better planning of work activities (Tr. 83). Dr. Murley also stated that, after initially slow progress, the teams put in place to implement corrective actions had a positive attitude and improvements have picked up "fairly quickly" (Tr. 84). It was Dr. Murley's judgment that the current status of the situation at Nine Mile Point, Unit 1 was "a fairly rapid improvement phase" (Tr. 84).

A similar assessment was offered by the Administrator for Region I. He observed that, as a follow-up to the Licensee's Restart Readiness Report, the NRC conducted an Integrated

Assessment Inspection in October 1989 which "noted clear improvement in licensee planning and goal setting, organizational culture, planning and teamwork" (Tr. 86). Although limited improvement was seen at that earlier date in problem solving and self-assessment, the Administrator stated that the results of the most recent inspection "demonstrated that the licensee had made substantial improvement in organizational standards, attitudes and performance" (Tr. 88). He stated the Staff's conclusion that the Restart Action Plan is comprehensive and adequately addresses organization management problems that had to be resolved prior to the restart of Unit 1 (Tr. 92).

Overall, the Administrator concluded that "Licensee management has demonstrated a commitment to improvement, and the leadership, resources and capability to bring it about (Tr. 94).[22] On this basis, the Administrator stated his intention to authorize restart of Nine Mile Point Unit 1 in coordination with the Executive Director for Operations and the Director of Nuclear Reactor Regulation (Tr. 96).

The NRC's recent Inspection Report of September 6, 1990 confirms the continuing trend toward improved performance, noting that station management oversight "has been evident and

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22/ For example, the Administrator observed increased effectiveness within the Quality Assurance Department and improved assessment in oversight capabilities on the part of both onsite and offsite Safety Review Committees (Tr. 94).

effective" and problems have been "properly and conservatively addressed."

III. Implementation of Generic Letters and Bulletins

Petitioner has suggested that Nine Mile Point, Unit 1 should not be permitted to operate until Niagara Mohawk has implemented every outstanding generic letter and bulletin relating to safety. This request is entirely without merit because, as noted by Chairman Carr in his letter of June 21, 1990 to Ms. Pooler, the NRC is constantly generating new bulletins and letters to update the industry on the most recent events with potential safety implications for other plants, and also because "[n]one of the generic letters or bulletins currently outstanding at NMP-1 deals with issues that must be resolved prior to startup."[23]

23/ Letter dated June 21, 1990 from Kenneth M. Carr, Chairman, to Rosemary S. Pooler, Esq. The Chairman's complete response on this point was as follows:

> With respect to your general concern that the NRC might authorize the restart of Nine Mile Point Unit 1 before the licensee has completed action on requirements addressed to generic letters and bulletins, you should be aware that at any particular point in time there will be a number of generic letters and bulletins that have been issued for which all requested actions have not yet been fully implemented. This is because the staff, on an ongoing basis, continues to issue generic letters and bulletins based on the results of operating experience or results developed from either the NRC's assessments or from information from the nuclear power industry. These letters and bulletins contain

(Footnote continued on next page)

Thus, petitioner proceeds on the mistaken assumption that a Licensee's complete implementation of every NRC general letter and bulletin is an index of its safe operation of a nuclear power plant or its commitment to safety. To the contrary, generic letters and bulletins provide only one of many different sources of information important to the nuclear industry for assuring continued safe operation of nuclear facilities. Like any other source of information, it must be assigned an appropriate weight and priority, depending upon its relevance to the systems, components, procedures and operations at a particular plant. For this reason, petitioner is unable to cite any authority to support the requirement she proposes either as a licensing standard or as a basis for instituting enforcement actions under 10 C.F.R. §2.206.

Moreover, the NRC Staff reported to the Commission that it has observed improved operational performance at Nine Mile Point, Unit 1 in recent months, thus refuting the need for any specialized standard. At the meeting with the Commission on May 14, 1990, the Administrator for Region I stated:

(Footnote continued from previous page)
information on diverse subjects, and, thus, result in widely varying solutions and schedules for action depending on the issue. None of the generic letters or bulletins currently outstanding at NMP-1 deals with issues that must be resolved prior to startup.

> During recent months, resident and region-based inspectors have noted a significant reduction in personnel errors and continued progress in completion of task[s] and implementation of plans to support Unit 1 restart. Operational performance at Unit 2 has shown marked improvement with no scrams from power and no significant events. Unit 1 preparation for and reload of fuel is generally well done. The maintenance backlog has been reduced and inspected activities have demonstrated improvement in staff attitude, maintenance process, oversight and performance, particularly since implementation of revised work control practices earlier this year. (Tr. 87).

At another point, the Administrator remarked about the Licensee's improvements in training, procedures and industrial safety, all of which demonstrate Niagara Mohawk's increased commitment to maintaining the highest standards of safety in the industry. The Administrator stated:

> Training has been substantially upgraded, particularly in the area of emergency procedures, about the knowledge of the bases for those procedures and how to use those procedures. Procedures have been substantially upgraded, and there is clear evidence of a strong commitment to procedural adherence.
>
> Industrial safety is emphasized and compliance is noteworthy. The staff understands and appears to have adopted new standards of performance. Supervisors are increasingly seen at the work place, and new tools for self-assessment and performance trending are being established. (Tr. 95.)

And in response to a specific question by Commissioner Rogers regarding the status of generic letters and bulletins applicable to Nine Mile Point, Unit 1, the Administrator responded:

> I don't believe there are any generic letters or bulletins which are . . . hanging fire which would affect restart at this point in time. There are a number of them that, of course, when they're on schedule will proceed and continue into the future, but I don't believe any that would, in fact, [affect] restart. (Tr. 98.)

CONCLUSION

For the reasons discussed above, petitioner has failed to raise any substantial health and safety concern and has therefore failed to demonstrate any reason why the Director should institute an enforcement proceeding pursuant to 10 C.F.R. §2.206 or otherwise delay restart authorization for Nine Mile Point, Unit 1.