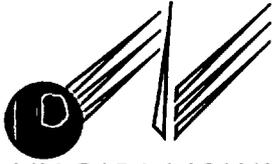


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NIAGARA MOHAWK

GENERATION
BUSINESS GROUP

300 ERIE BOULEVARD WEST, SYRACUSE, NEW YORK 13202/TELEPHONE (315) 428-6983

B. RALPH SYLVIA
Executive Vice President
Generation Business Group
Chief Nuclear Officer

July 16, 1996
NMP1L 1100

Mr. James L. Lieberman
Director, Office of Enforcement
U. S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

RE: Nine Mile Point Unit 1
Docket No. 50-220
DPR-63

*Subject: June 18, 1996 Notice of Violation
NRC Inspection Report No. 50-220/96-05*

Gentlemen:

Niagara Mohawk Power Corporation's (NMPC) reply to the Notice of Violation is enclosed as Attachment A to this letter. An answer to the Notice of Violation, with a request for further review and possible mitigation of the civil penalty, is enclosed as Attachment B to this letter.

In the attached reply, Niagara Mohawk has admitted to the two violations which were, in aggregate, cited as a Level III violation. The breakdown of the design control processes and the failure to take timely action to resolve the issue in accordance with 10 CFR 50.59 are recognized as significant performance deficiencies. However, Niagara Mohawk does not believe that these violations warrant a civil penalty and has requested that this enforcement action be reviewed for possible mitigation. As discussed in Attachment B, the deficiencies in the blowout panel construction do not represent a significant safety impact. At all times the blowout panels would have functioned as designed to prevent failure of the building superstructures. Furthermore, the panels would only function in the event of a high energy line break outside containment; a scenario that is not considered a design basis event for Nine Mile Point Unit 1.

In requesting that the events associated with the civil penalty be reviewed for possible mitigation, Niagara Mohawk is particularly concerned that the violations and the imposition of a civil penalty may be the result of applying a relatively recent regulatory position and philosophy to actions which occurred over three years ago. Specifically, it appears that the Staff is considering all statements and commitments in the Final Safety Analysis Report

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(FSAR) as "stand-alone" regulatory requirements, and has also applied a new and restrictive interpretation to the definition of the "margin of safety" terminology in 10 CFR 50.59. Niagara Mohawk believes that its actions in this matter were consistent with the regulations and the then generally accepted industry and NRC practice regarding the status of FSAR information and the "margin of safety." Niagara Mohawk is participating with the Nuclear Energy Institute (NEI) to initiate a dialogue with the NRC regarding the resolution of these new generic issues. Notwithstanding our efforts to reach agreement on the interpretation of these concepts, Niagara Mohawk does not believe it is appropriate to base enforcement actions for past events on regulatory positions and guidance which have only recently been issued and which are actively being discussed and considered by regulators and licensees.

Very truly yours,



B. Ralph Sylvia
Chief Nuclear Officer

BRS/AFZ/kap
Enclosure

xc: NRC Document Control Desk
Regional Administrator, Region I
Mr. B. S. Norris, Senior Resident Inspector
Mr. D. S. Hood, Senior Project Manager, NRR
Records Management



UNITED STATES NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
Niagara Mohawk Power Corporation)
)
Nine Mile Point Unit 1)

Docket No. 50-220

B. Ralph Sylvia, being duly sworn, states that he is the Chief Nuclear Officer of Niagara Mohawk Power Corporation; that he is authorized on the part of said Corporation to sign and file with the Nuclear Regulatory Commission the documents attached hereto; and that the documents are true and correct to the best of his knowledge, information, and belief.

B. Ralph Sylvia
B. Ralph Sylvia
Chief Nuclear Officer

Subscribed and Sworn before me, a Notary Public in and for the State of New York and the County of Oswego, this 16 day of July 1996.

Beverly W. Ripka
Notary Public in and for

Oswego County, New York

My Commission Expires:

2/28/98

BEVERLY W. RIPKA
Notary Public State of New York
Qual. in Oswego Co. No. 4644879
My Commission Exp. ~~Mar 31 1998~~

2/28/98



ATTACHMENT A

**Niagara Mohawk Power Corporation
Nine Mile Point Unit 1
Docket No. 50-220
DPR-63**

**REPLY TO NOTICE OF VIOLATION
AS CONTAINED IN INSPECTION REPORT 50-220/96-05**

VIOLATION 50-220/96-05-I, A&B

- I.A Title 10 of the Code of Federal Regulations, Part 50, (10 CFR 50), Appendix B, Criterion III, "Design Control," requires that measures be established to verify the adequacy of design, such as by design reviews, alternate or simplified calculational methods, or suitable testing.

Nine Mile Point Unit 1 Updated Final Safety Analysis Report (UFSAR), Sections VI.C.1.2 and III.A.1.2, state that the reactor and turbine building pressure relief panels will blowout at 45 pounds per square foot (psf) to prevent failure of the building superstructures at an internal pressure in excess of 80 psf.

Contrary to the above, between October 1993 and March 1995, measures established failed to verify the adequacy of design for Unit 1 reactor and turbine building pressure relief panels to blowout at the specified pressures. Specifically, in October 1993, NMPC made an error in the assumptions for calculations regarding the installed, oversized bolts in the reactor and turbine building pressure relief panels. The error was not identified, during the review process, by either the independent engineering reviewer or approver. It was not recognized until March 1995 that the relief pressures were in excess of the designed blowout pressure of the superstructures (01013).

- I.B. 10 CFR 50.59(a)(1), allows, in part, the holder of a license to make changes to the facility as described in the safety analysis report unless the proposed change involves an unreviewed safety question. 10 CFR 50.59(b)(1) requires, in part, the licensee to maintain records of changes in the facility, to the extent that these changes constitute changes in the facility as described in the safety analysis report. The records must include a written safety evaluation which provides the bases for the determination that the change does not involve an unreviewed safety question.

Nine Mile Point Unit 1 UFSAR Sections VI.C.1.2 and III.A.1.2 state that the reactor and turbine building pressure relief panels will blowout at 45 psf to prevent failure of the building superstructure at an internal pressure in excess of 80 psf.



Contrary to the above, from December 1969 to March 1995, the actual design configuration of the reactor and turbine building pressure relief panels was different from that described in the UFSAR, and Niagara Mohawk Power Corporation (NMPC) did not perform the required written safety evaluation to provide the bases for a determination that the deviation from the UFSAR description did not involve an unreviewed safety question. Specifically, in October 1993, NMPC identified that the wrong size bolts had been installed in the relief panels during initial construction. Calculations revealed that the reactor and turbine building pressure relief panels would not relieve until 53 and 60 psf, respectively. Subsequent calculations revealed that the panels would not relieve until the pressure was in excess of the superstructure design blowout pressure of 80 psf stated in the UFSAR, and the licensee neither performed the evaluation required by 10 CFR 50.59, nor did it undertake adequate corrective action to restore the facility to the licensing basis configuration as specified in the UFSAR (01023).

I. The Reason for the Violation

Niagara Mohawk admits to the violations as stated.

On October 25, 1993, Niagara Mohawk determined that the relief (blowout) panels in the Nine Mile Point Unit 1 (NMP1) turbine and reactor buildings would not blow out at approximately 45 psf because the installed bolt fasteners (shear bolts) for the panels were larger than designed and had a higher ultimate strength than designed and discussed in the UFSAR. The initial engineering evaluation of this condition determined that the turbine and reactor building panels would blowout at 60 and 53 psf, respectively, to relieve internal building pressure prior to failure of the building superstructures. Because the calculated blowout pressures were well below the design basis structural strength of the buildings, which was indicated in the UFSAR as in excess of 80 psf, the panels were declared operable by a written Operability Determination based on NRC Generic Letter 91-18.

This plant condition was identified by Niagara Mohawk as a result of a proactive evaluation to resolve a minor discrepancy in the UFSAR. Specifically, the blowout pressure of the relief panels was noted as 40 psf in some sections and 45 psf in other sections. The engineer assigned to resolve the discrepancy between the 40 and 45 psf entries in the UFSAR, did not simply perform an evaluation or calculation based on design drawings and records. Rather, to resolve this issue, the panels were inspected to verify their actual bolt configuration, and a sample of shear bolts were removed from both the Reactor and Turbine Building panels for measurement and tensile testing. These actions resulted in identifying the extent of the issue.

Before startup following a refueling outage, Niagara Mohawk reviews all outstanding issues (DERs) to assess their impact on power operation. As a result of this review in March 1995, the deficiency in the 1993 blowout panel calculations was identified. At this time, Niagara Mohawk determined that the calculation supporting the above conclusion was erroneous in that the engineer evaluating the condition had made a cognitive error in establishing the load distribution assumption, and this error was not identified during the design review process. Specifically, a two-way span analysis was erroneously used to establish panel failure, and the results were used



in the operability determination. The resulting failure mode of metal tearing was not consistent with the UFSAR description of failure by bolt shearing. Furthermore, neither the supervisor nor the checker recognized the misuse of calculation information. This was a cognitive error on the part of the preparer and checker in not providing a self-explanatory conclusion as part of the calculation, and also in using a span methodology in the calculation that was not appropriate. The supervisor failed to perform a sufficiently thorough review, and failed to recognize that the calculation contained an inappropriate methodology and did not contain a self-explanatory conclusion. Further technical details regarding the nature of the calculation error are provided in Supplement 1 of NMP1 LER 95-05 submitted on June 26, 1996 (NMP1L 1089).

When the problem of the oversized shear bolts was first identified in 1993, a Deviation/Event Report (DER) was issued. The disposition of this DER included provisions to either restore the panel to the UFSAR description or evaluate and accept the newly calculated blowout pressures and change the UFSAR accordingly. Because of the low safety significance, the completion of this action was scheduled by July 1995. In accordance with the Unit 1 Engineering practice existing at the time, the DER disposition and completion schedule were approved by the structural supervisor. The Unit 1 Engineering Supervisors had been delegated authority for dispositioning DERs by the Branch Manager (Niagara Mohawk considered this inappropriate and corrected this practice in 1994), which resulted in the DER disposition being approved without appropriate management involvement. Although the blowout panels were determined to be operable and the disposition clearly did require either restoration to the UFSAR description or completion of a safety evaluation for the new condition, Niagara Mohawk recognizes that the schedule established for completion of the disposition was not timely.

When the calculation error was identified in March 1995, Niagara Mohawk recognized that the panel blowout pressure exceeded the building design basis acceptance limit, which was in excess of 80 psf as described in the UFSAR. This occurred while NMP1 was shutdown for refueling, and Niagara Mohawk took prompt action, prior to restart, to restore the panels to the UFSAR condition by removing every other shear bolt. Further technical details regarding the evaluation supporting this action is provided in the response to blowout panel technical questions submitted to the NRC on July 3, 1996 (NMP1L 1096). Additional analysis of the modified panel configuration, performed in May and June of 1996 using more conservative design assumptions, determined new upper bound blowout pressures of 65 and 62 psf for the reactor and turbine buildings, respectively. Further technical details regarding this additional analysis are also provided in the July 3, 1996 submittal. A Licensing Document Change Request (LDCR) has been initiated to document and track the actions to revise the UFSAR to reflect the currently calculated panel blowout pressures.



II. Corrective Actions Taken and Results Achieved

The following corrective actions have been taken:

1. An independent review has been completed of 29 of approximately 600 Unit 1 Structural Engineering calculations performed since 1993 to ensure they were performed correctly. The sample included calculations performed by the engineer who performed the initial blowout calculations in 1993. The sample was a random sample of unique or unusual calculations performed by the structural engineers during this period. The review identified no technical errors, indicating that this error was an isolated event.
2. A Licensing Document Change Request (LDCR) has been initiated to document and track the actions to revise the UFSAR to reflect the currently calculated panel blowout points of 65 and 62 psf for the reactor and turbine buildings, respectively. A safety evaluation required by 10 CFR 50.59 will be approved by September 15, 1996 and the results of the safety evaluation will be incorporated into the UFSAR in accordance with 10 CFR 50.71.
3. The Supervisor of the Structural Engineering Group has counseled his personnel regarding the importance of an adequate review of documents and calculations and, particularly, the verification of assumptions. The Engineering Branch Manager has counseled the Supervisor of Structural Engineering regarding the deficiencies in his review, and has also reviewed this event with all of his direct reports.

III. Actions Taken To Prevent Recurrence

1. A Lessons Learned will be issued to appropriate personnel to convey the lessons of supervisor oversight and independent review. Completion Date: July 31, 1996.
2. The DER disposition and approval process has been strengthened since 1993 to improve plant management oversight, review and approval of DER dispositions and their implementation. This oversight is intended to ensure that the resolution of identified deficiencies and the proposed dispositions, including implementation schedules, are approved at the appropriate management level, and are completed in a timely manner.
3. A branch specific "Back-to-Basics" training program covering "licensing basis" issues is being conducted. This training has heightened awareness of the relationship of procedures and review processes with the UFSAR and design basis. In addition, the biennial requalification training for personnel authorized to prepare the safety evaluations required by 10 CFR 50.59 now includes a specific discussion of the blowout panel issue and the consequences of failing to prepare a safety evaluation. Members of the Senior Management Team are also attending the requalification training to ensure their expectations are incorporated, and to heighten awareness of 10 CFR 50.59 requirements and issues.



4. The Engineering Branch Manager and the Supervisor of Structural Engineering have discussed with the structural engineers the importance of understanding the function and behavior of a structural element before performing a calculation. The discussion also included the importance of understanding the difference in assumptions when designing a component to fail, and the importance of a clear and self-explanatory conclusion.
5. Structural engineers have received additional training on procedure NEP-DES-08, "Calculations," to reinforce their understanding of the roles of preparer, checker and approver. This training addressed the identified errors by reinforcing that a preparer/checker must determine the correctness of methodologies being used and that calculations contain a self-explanatory conclusion. The training also reinforced the responsibility of supervisors to review calculations to verify that methodologies used have been confirmed as appropriate and that the conclusions are both stated and valid.
6. The Engineering Branch DER guidelines for Operability Supporting Analysis (NEG-1E-006) have been revised to emphasize the role of a supervisor in checking the DER deviation descriptions with the results of a calculation, especially when associated with Operability Determinations with the potential for reportability.
7. Procedure NIP-ECA-01 will be revised to provide direction on the process for resolving non-conforming conditions such that differences from the UFSAR are reconciled in an appropriate timeframe and with adequate plant management involvement. Completion date: August 31, 1996.
8. The Senior Management Team will review current trends and issues regarding implementation of 10 CFR 50.59 requirements. This review will focus on examples of recent deficiencies in Niagara Mohawk's performance and continuing developments within the industry. The purpose of this review is to provide increased senior management involvement in the 10 CFR 50.59 issue and to provide appropriate guidance and oversight. Completion date: August 31, 1996.

IV. Date When Full Compliance Will Be Achieved

June 21, 1996: Revised calculations for blowout panel pressures approved.

September 15, 1996: Safety Evaluation and LDCR revising UFSAR to reflect current design condition to be approved.

VIOLATION 50-220/96-05-II.A

The Nine Mile Point Nuclear Station Unit 1 Technical Specification (TS) 6.8.1, requires that written procedures and administrative policies shall be established, implemented and maintained that meet or exceed the requirements or recommendations of Sections 5.1 and 5.3 of ANSI N18.7-1972 and Appendix A of NRC Regulatory Guide 1.33 except as provided in TS 6.8.2 and 6.8.3. Procedure NIP-ECA-01, "Deviation Event Report," Section 1 of Revision 8, implements, in part,



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TS 6.8.1 and requires that a deviation/event report (DER) be written to address human performance problems/issues adverse to quality.

Contrary to the above, on March 17, 1995, a DER was not written to address the human performance problems of the 1993 calculation error and the failure to identify the error during the initial review process for the reactor and turbine building relief panels. Specifically, NMPC identified an error in the October 1993 calculation related to oversized bolts installed in the reactor and turbine building pressure relief panels, and NMPC did not prepare the required DER (02014).

Explanation of Disagreement with Violation

Niagara Mohawk disagrees with this violation, as cited. As written, the focus of the violation citation is a failure to write a specific DER for the human performance problem associated with the calculation error for the building panel blowout pressures. Niagara Mohawk procedures do not require a new DER to address subsequent, but related issues, which are identified during the DER disposition process. For this specific situation, DER 1-93-2526 was issued when the problem of the improper sized bolts was originally identified in 1993. This DER had not yet been closed when the error in the 1993 calculations was identified in March 1995, and the evaluation and resolution of the calculation error were added to the disposition of the existing DER at this time. Therefore, Niagara Mohawk does not consider the failure to issue a separate DER to be a violation.

Niagara Mohawk does not believe that writing separate DERs is always the best approach to effective evaluation and resolution. Therefore, Niagara Mohawk does not intend to revise NIP-ECA-01 to require issuing a separate DER for each specific problem, and based on the above, Niagara Mohawk disagrees with this violation as there was no procedural violation, and the present guidance provided by procedure NIP-ECA-01 is adequate.

Nonetheless, Niagara Mohawk has concluded that this DER was dispositioned with insufficient evaluation of the human performance deficiencies which caused the calculation error. Therefore, on April 10, 1996, DER 1-96-0922 was issued to specifically address the human performance deficiencies associated with the calculation of blowout panel pressures. Corrective actions initiated as a result of the disposition of this DER are among those identified in the discussion for violations I.A. and I.B.

VIOLATION 50-220/96-05-II B

10 CFR 50.72(b)(1)(ii)(B), requires, in part, that the licensee shall notify the NRC as soon as practical and in all cases within one hour of the occurrence of any event or condition, during operation, that results in the nuclear power plant, including its principal safety barriers, being seriously degraded or in a condition that is outside the design basis of the plant.



10 CFR 50.73 (a)(2)(ii)(B) requires that the licensee shall submit a Licensee Event Report (LER) within 30 days of discovery of any event or condition that results in the condition of the nuclear power plant, including its principal safety barriers being seriously degraded or in a condition that is outside the design basis of the plant.

Contrary to the above, in October 1993, NMPC did not notify the NRC within one hour of the discovery of a condition outside the design basis of the plant, nor did NMPC submit a LER within 30 days of discovery of a condition outside the design basis of the plant. Specifically, with the plant operating, NMPC determined that the actual blowout pressures of the reactor and turbine building pressure relief panels were in excess of the buildings' design basis pressures identified in the Unit 1 UFSAR, and NMPC failed to make and submit the required reports in the required time periods (02024).

Explanation of Disagreement with Violation

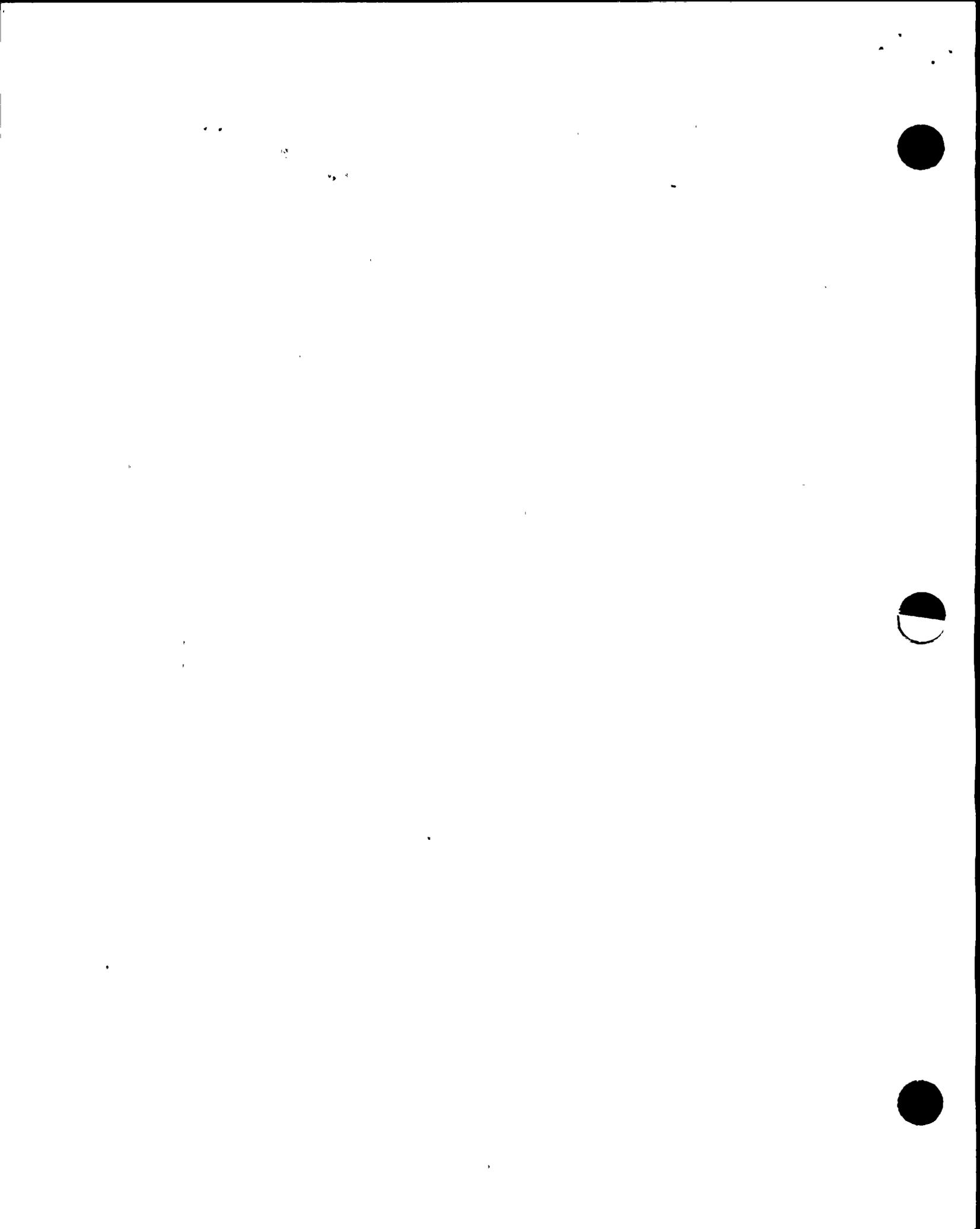
Niagara Mohawk disagrees with this violation, as cited. In October of 1993 the calculations associated with the oversized bolts in the blowout panels indicated that the reactor and turbine building panels would relieve at internal pressures of 53 and 60 psf, respectively. The UFSAR indicated that the buildings' design basis pressure was in excess of 80 psf. Niagara Mohawk, therefore, concluded that this situation was not reportable even though the calculated blowout pressures did exceed the 45 psf nominal value for bolt failure as indicated in the UFSAR.

In reaching this conclusion, Niagara Mohawk considered the guidance in NUREG-1022, "Event Reporting Guidelines 10 CFR 50.72 and 50.73," and various statements in the Federal Register (FR) related to the reportability rule. NUREG-1022, in discussing this paragraph, provides an example where high energy line break restraints are not installed, but indicates that this would not be considered reportable if analysis shows that the particular missing restraints are not needed for compliance with the design basis. The preamble to the final rule in FR August 29, 1983 notes in regard to this section of the rule that "It is not intended that this paragraph apply to minor variations in individual parameters or to problems concerning single pieces of equipment." Discussing the same topic the FR of April 8, 1993 noted;

"Furthermore, the wording of the criteria and the guidance in the preamble to the final rule imply that this impact on plant safety should be at a fairly high level," and "Therefore, failure, specification problems, and loss of safety margins that apply to individual components are not reportable unless they effect the ability to satisfy plant safety functions."¹

Based on the above guidance, Niagara Mohawk concluded in October of 1993 that the calculated blowout pressures of 53 and 60 psf for the reactor and turbine buildings, respectively, would still have the ability to satisfy the plant design basis. Specifically, the blowout panels would still protect the buildings' superstructure from failure, which was considered the plant design basis.

¹ 58 Fed. Reg. 18167, 18174 (April 8, 1993).



The 45 psf value is not considered the plant design basis for reportability considerations nor were any of the principle safety barriers seriously degraded. Therefore, Niagara Mohawk does not consider that this condition was reportable given the information available in October 1993, and disagrees with this violation.

Niagara Mohawk also notes that the violation and, particularly, the discussion in the NOV transmittal letter suggests that the staff is applying a relatively recent regulatory position regarding the status of numerical values within the UFSAR. Specifically, it appears that the staff is considering all statements and commitments in the FSAR as "stand-alone" requirements. While stated in the second paragraph on page two of the NOV transmittal letter, but not cited as such in any of the violations, it appears that the NRC staff considers that the failure of the blowout panels to function at the UFSAR stated pressure of 45 psf is, in itself, a violation of regulatory requirements and a reportable situation. Niagara Mohawk disagrees with this interpretation of the legal significance of the UFSAR, and is participating with the Nuclear Energy Institute (NEI) to initiate a dialogue with the NRC regarding the resolution of this generic issue. Notwithstanding our efforts to reach agreement on what the interpretation of information in the UFSAR should be, it is clear that the NRC's regulatory interpretation is inconsistent with the previously issued guidance on reportability as referenced in this response.



Attachment B
Niagara Mohawk Power Corporation
Nine Mile Point Unit 1
Docket No. 50-220
DPR-63

ANSWER TO NOTICE OF VIOLATION

Niagara Mohawk requests that the \$50,000 civil penalty issued for the violations associated with the Nine Mile Point Unit 1 (NMP1) building blowout panels be mitigated. In considering mitigation of this penalty on the basis of the actions taken to correct the problem, Niagara Mohawk believes that overall performance should be considered. Based on the discussion of the rejection of mitigation in the letter transmitting the Notice of Violation (NOV), it appears that the NRC staff focused only on one aspect of the issue, and, in fact, rejected mitigation based on an erroneous interpretation of Niagara Mohawk's actions with respect to safety and on a consideration which is the basic essence of one of the violations.

Niagara Mohawk has not been assessed a civil penalty since 1992. Since that time, Niagara Mohawk's regulatory performance has consistently demonstrated a proactive approach to safety, the ability and willingness to identify and resolve problems, and a consistent application of conservative decisions regarding nuclear activities. Considering the regulatory record since 1992, Niagara Mohawk believes that the violations associated with the blowout panels represent a unique and isolated occurrence. Therefore, in consideration of the additional factors discussed in the following paragraphs, Niagara Mohawk requests the imposition of the civil penalty be mitigated in its entirety.

Violation I.B. cites Niagara Mohawk's failure to take the actions required by 10 CFR 50.59 in a timely manner. In fact, and contrary to the NRC statements in the NOV transmittal letter, in March 1995, when the calculational error associated with the panel blowout pressures was identified, Niagara Mohawk immediately took action to restore the panels to a condition consistent with that described in the Updated Final Safety Analysis Report (UFSAR). This action included the completion of an Applicability Review which determined that a full safety evaluation, in accordance with 10 CFR 50.59, was not required as the actions taken restored the blowout panels to the condition described in the UFSAR. Niagara Mohawk believes that this was a substantive corrective action in compliance with the requirements of 10 CFR 50.59; however, the discussion in the transmittal letter for the NOV did not indicate any credit for this action. The Staff, in rejecting mitigation, focused on the original identification of the problem in March of 1993, and essentially restated the violation. It also appears that the staff in rejecting mitigation, has used a newly issued interpretation of "margin of safety" as discussed below.

The above analysis and the corrective actions taken are described in Supplement 1 of LER 95-05. Subsequently, additional analyses indicated that more conservative design assumptions were appropriate in establishing an upper-bound blowout pressure, and the calculations were accordingly revised. As described in the NOV response (paragraph II.2.), Niagara Mohawk is

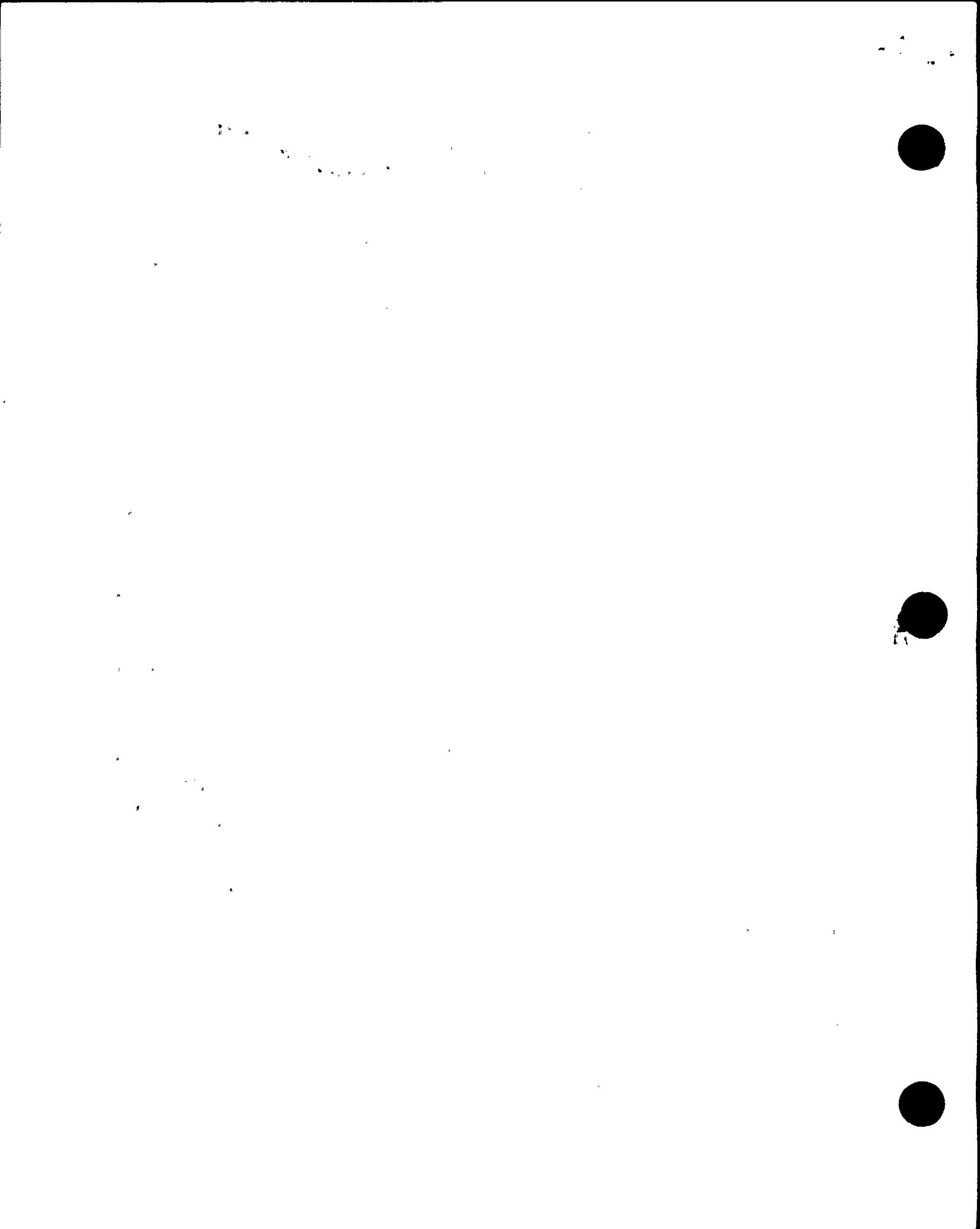


taking appropriate action to revise the UFSAR to reflect the results of the most recent calculations. Niagara Mohawk recognizes that there has been considerable discussion between Niagara Mohawk engineers and staff technical reviewers concerning the unresolved issue regarding the methodology for blowout pressure calculation. However, Niagara Mohawk considers this to be indicative of the complexity of the issue and the need to establish a reasonable, but not overly conservative, analysis of the blowout panel functional performance. Such an approach was completed and reported to the NRC on July 3, 1996 (NMP1L 1096) in a response to specific technical questions regarding this issue. The approach taken in the analysis resulted in a conservative calculation of the upper bound blowout pressures, while assuring that the Reactor Building integrity function of the panels was not compromised.

Other circumstances regarding this issue also demonstrate the extent of Niagara Mohawk's resolution efforts. In particular, the engineer assigned to resolve the originally identified minor discrepancy between the 40 and 45 psf entries in the UFSAR, did not simply perform an evaluation or calculation based on design drawings and records. Rather, to resolve this issue proactively, the panels were inspected to verify the actual bolt configuration, and a sample of shear bolts was selected for measurement and tensile testing. These actions resulted in identifying the extent of the issue, and demonstrate an aggressive problem resolution approach. Had these actions not been taken, it is unlikely that the blowout panel deficiency would have been discovered.

Furthermore, before start-up following a refueling outage, Niagara Mohawk reviews all outstanding issues (DERs) to assess their impact on power operation. As a result of this review in March 1995, the deficiency in the 1993 blowout panel calculations was identified and brought to the attention of the supervisor who originally approved the calculations. He promptly reported this condition to management, which enabled Niagara Mohawk to restore the panels to the condition described in the UFSAR prior to returning NMP1 to power operation. These actions demonstrate the commitment of Niagara Mohawk and the NMP1 staff to safe operation of the plant. In addition, Niagara Mohawk, after initially considering the condition not reportable in March of 1995, issued an LER for this event in November of 1995. The decision to issue an LER was the direct result of a questioning attitude by members of the operating staff. Together these actions indicate the effectiveness of Niagara Mohawk's efforts to promote a safety conscious and questioning atmosphere for nuclear activities. In fact, the actions taken since the issue was initiated demonstrate Niagara Mohawk's ability and willingness to self-identify problems and take the necessary prompt and effective corrective action.

Niagara Mohawk has also determined that the original installation error, the calculation error, and the use of non-conservative design assumptions did not have a significant effect upon safety. As reported in Supplement 1 to LER 95-05, the actual building structural capacities have been determined to be 143 psf for the Reactor Building (RB) and 135 psf for the Turbine Building (TB). These capacities far exceed the currently calculated upper-bound blowout pressures of 65 (RB) and 62 (TB) psf. The capacities are also above the recalculated upper-bound, blowout pressures of 128 (RB) and 122 (TB) psf for the originally installed panel configurations. In addition, although the blowout panels were designed to mitigate the effects of a high energy line break outside containment, such a high energy line break is not a design basis event for NMP1.



Finally, the NOV transmittal letter indicates that the violations involved a "failure to ensure that the Unit 1 reactor and turbine building pressure relief panels would function at the specified 45 pounds per square foot (psf) as stated in your Updated Final Safety Analysis Report (FSAR)." This comment appears to indicate that the staff is applying a relatively recent regulatory position regarding the status of the UFSAR. Specifically, it appears that the staff is considering all statements and commitments in the FSAR as "stand-alone" requirements. While not explicitly cited in any of the violations, it appears that the NRC staff considers that the failure of the blowout panels to function at the UFSAR stated pressure of 45 psf is, in itself, a violation of regulatory requirements and a reportable situation. Furthermore, neither the blowout pressures erroneously calculated in 1993, nor the current upper-bound blowout pressures discussed above, result in a conclusion that there is a reduction in the "margin of safety," as both sets of values are within the acceptance limit of 80 psf as stated in the UFSAR. Niagara Mohawk recognizes that, in conjunction with the recent regulatory position on the status of the UFSAR, the NRC has also issued a new and restrictive interpretation of the definition of "margin of safety." This new regulatory position may have influenced the NRC on these violations and proposed civil penalty. In any event, Niagara Mohawk believes that its actions in this matter were consistent with the then generally accepted industry practice as accepted by the NRC regarding the status of FSAR information and the "margin of safety." Niagara Mohawk is participating with the Nuclear Energy Institute (NEI) to initiate a dialogue with the NRC regarding the resolution of these new generic issues. Notwithstanding our efforts to reach agreement on the interpretation of these concepts, Niagara Mohawk does not believe it is appropriate to base enforcement actions for past events on regulatory positions and guidance which have only recently been issued and which are actively being discussed and considered by regulators and licensees.

Considering the above information, Niagara Mohawk requests that the civil penalty issued for the violations associated with the NMP1 building blowout panels be mitigated in its entirety. In summary, when the calculation error was identified in 1995, Niagara Mohawk took immediate action to restore the blowout panels to their UFSAR described condition. Other actions taken by Niagara Mohawk management and staff personnel demonstrate an aggressive approach to problem resolution, an overriding commitment to safety and the effectiveness of the safety conscious and questioning atmosphere. In conjunction with our past good performance, as demonstrated by a lack of any escalated enforcement action in more than two years, and the low safety significance of this issue, Niagara Mohawk believes that full mitigation is warranted.

