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 LOCHBAUM, D.A.      Union of Concerned Scientists  
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 BAJWA, S.S.

SUBJECT: Ack receipt for NRC ltr dtd 970609, responding to Union of Concerned Scientists concerns re vertical cracks in core shroud at Niagara Mohawk Nine Mile Point, Unit 1.

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**UNION OF  
CONCERNED  
SCIENTISTS**

June 12, 1997

Mr. S. Singh Bajwa, Acting Director  
Project Directorate I-1  
Division of Reactor Projects - I/II  
Office of Nuclear Reactor Regulation  
United States Nuclear Regulatory Commission  
Washington, DC 20555-0001

**SUBJECT: OPERATION OF NINE MILE POINT UNIT 1 WITH CORE SHROUD VERTICAL  
CRACKS**

Dear Mr. Bajwa:

Thank you for your letter dated June 9, 1997, responding to UCS's concerns regarding vertical cracks in the core shroud at Niagara Mohawk's Nine Mile Point Unit 1 (NMP-1). Your response, along with its enclosures, fully addressed the concerns we identified to the NRC staff by letters dated April 9 and 17, 1997.

In our April 17<sup>th</sup> letter, we noted that the justification for continued operation of NMP-1 submitted by Niagara Mohawk by letter dated April 8, 1997, relied on a technical analysis which assumed reactor coolant water chemistry performance significantly better than permitted by the plant's Technical Specifications. We expressed to the NRC staff our considered opinion that the regulations of 10 CFR Part 50 required that Niagara Mohawk either submit a license amendment for reactor coolant water chemistry or re-evaluate core shroud cracking propagation at the higher Technical Specification chemistry values. In your response, you indicated that the NRC's approval for operating NMP-1 with its cracked core shroud was contingent upon Niagara Mohawk maintaining reactor coolant water chemistry within the guidelines of EPRI's TR-103515 and also submitting an application for a license amendment within 60 days. We look forward to reviewing that license amendment.

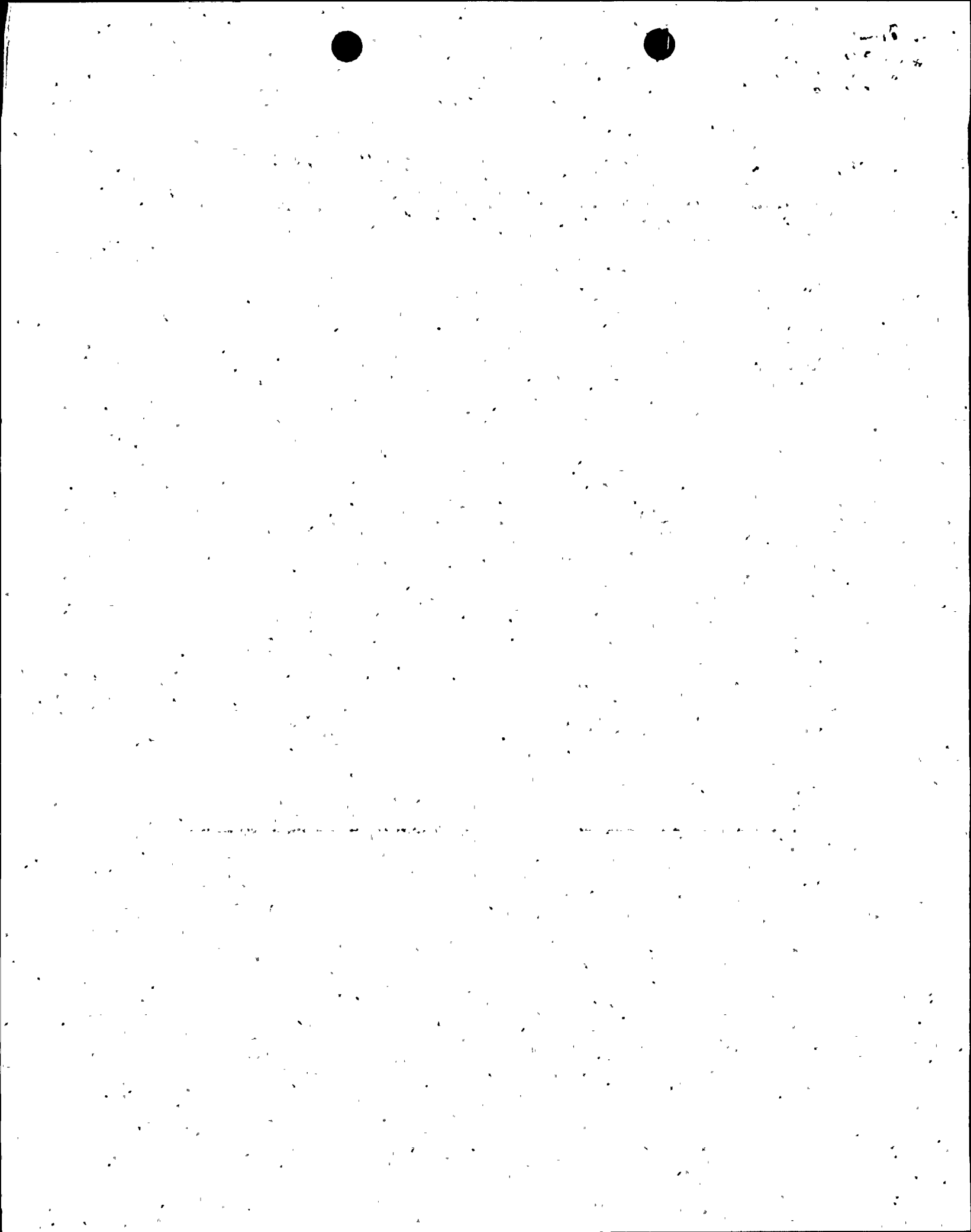
In its submittal dated April 8, 1997, Niagara Mohawk made no mention of a license amendment for reactor coolant water chemistry. In a letter dated April 25, 1997, responding to our concerns, Niagara Mohawk informed the NRC that it determined that a "...TS [Technical Specification] change is unnecessary." Therefore, Niagara Mohawk did not of its own volition identify the need for a license amendment and actively resisted the need once it was brought to their attention.

While Niagara Mohawk's failure to voluntarily apply for a license amendment can be somewhat excused based on the unprecedented nature of this issue (i.e., no one has ever attempted to operate a nuclear power plant with its core shroud so severely deteriorated), this licensee's inactions should be of tremendous concern to the NRC. Left to its own devices, it appears that Niagara Mohawk would have restarted and operated NMP-1 without seeking a license amendment for reactor coolant water



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chemistry. The legal obligation for conforming with federal safety regulations is clearly that of Niagara Mohawk, not, as in this case, with concerned local citizens, activists, and public interest groups. Does the NRC feel that Niagara Mohawk properly fulfilled its legal responsibilities in this matter? If so, why?

The NRC often touts the need for conservative decision making by its licensees. The lack of conservative decision making by the control room operators during the April 1994 marsh grass incident at the Salem Generating Station clearly displeased the NRC staff and was cited as a factor in the subsequent imposition of a hefty Civil Penalty. On the other hand, the lack of conservative decision making by Niagara Mohawk during the April 1997 core shroud assessment seemingly fails to upset the NRC.

The NRC has been accused of over-reacting to events at Millstone and Maine Yankee. By acting indifferently to licensee failures, such as in this Niagara Mohawk case, until some watershed event forces a response, the NRC provides the perception of over-reaction. The NRC must react promptly to poor licensee performance and not squirrel away bad points to be unleashed at some future "prudent" time. The NRC is unfair to its licensees when it tolerates their failures until the aggregate prompts full regulatory rage. The NRC does not instill, nor does it deserve, public confidence when it distributes "get out of jail free" cards to recalcitrant licensees so readily. Therefore, we feel it is vitally important that the NRC send an unequivocal message to Niagara Mohawk that its future decision making must be more conservative.

Sincerely,



David A. Lochbaum  
Nuclear Safety Engineer

cc: Chairman Shirley Ann Jackson  
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