

January 9, 1998

Mr. B. Ralph Sylvia  
Executive Vice President Generation Business  
Group and Chief Nuclear Officer  
Niagara Mohawk Power Corporation  
Nuclear Learning Center  
450 Lake Road  
Oswego, NY 13126

SUBJECT: NOTICE OF ENFORCEMENT DISCRETION FOR NIAGARA MOHAWK  
POWER CORPORATION REGARDING NINE MILE POINT UNIT 2  
(NOED No. 98-1-001)

Dear Mr. Sylvia:

By letter dated January 8, 1998, you submitted a written request that the NRC exercise discretion not to enforce compliance with the actions required in Technical Specification (TS) 3.0.3 and TS 3.8.1.1 Action e. That letter documented information previously discussed with the NRC in a telephone conversation at approximately 1100 hours on January 7, 1998. During that teleconference you stated that on January 7, 1998 at 0441 hours, inoperable containment gaseous and particulate radiation monitors caused Nine Mile Point Unit 2 to enter TS 3.0.3 which requires the plant to be in the Startup mode within the next 6 hours. Additionally, TS 3.8.1.1 Action e requires the plant to be in Hot Shutdown within 12 hours. You requested that a Notice of Enforcement Discretion (NOED) be issued pursuant to the NRC's policy regarding exercise of discretion for an operating facility, set out in Section VII.c. of the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, and be effective for the period beginning on January 7, 1998 at 1123 hours and ending January 8, 1998 at 0900 hours.

The failure of Division II Containment Monitoring System (CMS) while Division I CMS was out of service for preplanned maintenance forced the entry into TS Limiting Conditions for Operation 3.0.3. As a result, at 0441 hours on January 7, 1998, NMPC entered TS 3.0.3, which required initiating actions within 1 hour and the plant to be in the Startup mode within the next 6 hours. The Division I Emergency Diesel Generator (EDG) was out of service for preplanned maintenance beginning at 0654 hours on January 6, 1998. When the Division II CMS became inoperable at 0441 hours on January 7, 1998, TS 3.8.1.1 Action e was entered, which required the plant to be in Hot Shutdown within 12 hours. NMPC requested enforcement discretion from these Specifications until 0900 hours on January 8, 1998, to make equipment repairs and perform system testing. NMPC safety rationale for requesting the NOED was that: (1) there is less risk in continued operation than in forcing an unnecessary plant challenge by taking the plant to Shutdown to comply with the requirements of TS 3.0.3 and TS 3.8.1.1 Action e; (2) the drywell floor and equipment drain tank fill rate monitoring systems remained capable of identifying leakage; and (3) the NRC Improved Technical Specification for a NMP2 type plant would have allowed a 30-day repair period for the CMS problems.

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The staff has reviewed the NMPC request to grant enforcement discretion to permit restoration of necessary equipment without the need to expose the plant to an unnecessary shutdown. The NOED is intended to avoid undesirable transients as a result of forcing compliance with the license condition and, thus, minimize potential safety consequences and operational risk. Additionally, discretion was based on the information exchanged during the telephone conference which included: (1) the further commitments to obtain and analyze drywell atmospheric grab samples every 12 hours, and increase the frequency of monitoring the primary containment equipment and floor drain leakage detection systems to every 4 hours during the period of discretion; (2) the fact that the Improved Standard Technical Specifications (ITS) allow continued operation for up to 30 days with no required drywell atmospheric monitoring system operable, provided grab samples are taken every 12 hours.

On the basis of the staff's evaluation of your request, the staff has concluded that a NOED is warranted and that this action involves minimal or no safety impact and no adverse radiological impact on public health and safety. Therefore, we have exercised discretion not to enforce compliance with the requirements of TS 3.0.3 and TS 3.8.1.1 Action e for the period from January 7, 1998 at 1123 hours until January 8, 1998 at 0900 hours. This letter documents our telephone conversation on January 7, 1998 when we orally issued this notice of enforcement discretion at 1123 hours. We understand that the condition causing the need for this NOED was corrected by you causing you to exit from the TS 3.0.3 and TS 3.8.1.1 Action e and from this NOED on January 7, 1998 at 1820 hours.

Finally, the staff notes enforcement discretion would not have been required had the ITS been in place. It is recognized that NMPC is in the process of converting to the ITS, nevertheless, every effort should be made to expedite this conversion.

Moreover, as stated in the Enforcement Policy, action will normally be taken, to the extent that violations were involved, for the root cause that led to the noncompliance for which this NOED was necessary.

Sincerely,

Original Signed by:

Charles W. Hehl, Director  
Division of Reactor Projects

Docket No. 50-410  
NOED No. 98-1-001



B. Ralph Sylvia

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cc:

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