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BLOUGH,A.R. Region 1 (Post 820201)
RECIP.NAME RECIPIENT AFFILIATION
MUELLER,J.H. Niagara Mohawk Power Corp.

SUBJECT: Responds to 990218 request that NRC exercise discretion by not enforcing compliance with action required in Nine Mile Point Unit 1 TSAS 3.1.3.e.Concludes NOED warranted & discretion exercised.

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March 9, 1999

Mr. John H. Mueller
Chief Nuclear Officer
Niagara Mohawk Power Corporation
Nine Mile Point Nuclear Station
Operations Building, 2nd Floor
P.O. Box 63
Lycoming, NY 13093

SUBJECT: EXERCISE OF ENFORCEMENT DISCRETION FOR NINE MILE POINT UNIT 1 (NOED No. 99-1-001)

Dear Mr. Mueller:

By letter dated February 18, 1999, (Enclosure 1), you requested that the NRC exercise discretion by not enforcing compliance with the actions required in Nine Mile Point Unit 1 Technical Specification Action Statement (TSAS) 3.1.3.e. That letter documented information previously discussed with the NRC in a telephone conversation completed at approximately 8:26 p.m., on February 17, 1999. During the teleconference, you stated that on the afternoon of February 17, 1999, Niagara Mohawk Power Corporation (NMPC) discovered that Technical Specification (TS) 3.2.6.a.1 regarding the structural integrity of ASME Section XI components had not been met. This TS required that all ASME code class components be operable in modes where their respective systems were required to be operable. Nonetheless, four heat exchanger bundles for the Nine Mile Point Unit 1 Emergency Condensers (ECs) had been installed in 1997 but the 16 associated welds had not been inspected in the manner prescribed by ASME Section XI requirements. Thus, these ECs were declared inoperable on February 18, 1999.

TS 3.1.3.e requires that a normal orderly shutdown begin within one hour and that the reactor be placed in cold shutdown within 10 hours. In order to preclude this TS-required plant shutdown, you requested that a Notice of Enforcement Discretion (NOED) be issued for TS 3.1.3.e to extend the allowed outage time (AOT) by 48 hours 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. The NRC reviewed and granted your request for the period beginning at 8:26 p.m., on February 17, 1999, and ending not later than 8:26 p.m., February 19, 1999. This approval was based in part on NMPC's determination that the ECs remained capable of performing their intended function and that the enforcement discretion would not be inconsistent with protecting public health and safety.

The NRC's basis for the discretion considered the lack of any visible or otherwise detectable degradation in the EC welds, satisfactory results from previously performed nondestructive evaluations (NDE) which included both surface and volumetric examinations of the affected

and related weld areas, and successful operational pressure testing of the welds at system design pressure.

Additionally, NMPC determined that based on analysis of the plant's probabilistic risk assessment the risk of extending the allowed outage time by 48 hours was minimal (1.0 E-06) for the period of discretion. NMPC considered the possibility of significant hazards associated with this period of noncompliance with TS and determined that there were no significant hazards.

As a compensatory measure, NMPC agreed to maintain both the automatic depressurization system (ADS) and the core spray system in a fully operable status during the period of time that discretion was requested, which included performing no maintenance or surveillance activities that would have impacted operability.

On the basis of the staff's evaluation of your request, the staff concluded that a NOED was warranted because we concluded that this action involved minimal or no safety impact and had no adverse radiological impact to the public's health and safety. Therefore, we exercised discretion not to enforce compliance with TSAS 3.1.3.e for the period from 8:26 p.m., on February 17, 1999, and ending not later than 8:26 p.m., February 19, 1999. This letter documents our telephone conversation on February 17, 1999, when we verbally issued this notice of enforcement discretion at 8:26 p.m.

We note that your inspections were completed on February 18, 1999, and found no weld material discrepancies. This incident will be discussed further in NRC Inspection Report 50-220/99-03. As stated in the Enforcement Policy, the NRC will normally take action, 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:
Glenn W. Meyer for

A. Randolph Blough, Director
Division of Reactor Projects

Docket No. 50-220
NOED No. 99-01-001

Enclosure: Enclosure 1

cc w/encl:
G. Wilson, Senior Attorney
M. Wetterhahn, Winston and Strawn
J. Rettberg, New York State Electric and Gas Corporation
P. Eddy, Electric Division, Department of Public Service, State of New York
C. Donaldson, Esquire, Assistant Attorney General, New York Department of Law
J. Vinquist, MATS, Inc.
F. Valentino, President, New York State Energy Research
and Development Authority
J. Spath, Program Director, New York State Energy Research
and Development Authority

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DATE	03/09/99		03/9/99		03/ /99		03/ /99		03/ /99	

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ENCLOSURE 1

Niagara Mohawk

John H. Mueller
Senior Vice President and
Chief Nuclear Officer

Phone: 315.349.7907
Fax: 315.349.1321
e-mail: mueller@nimo.com

February 18, 1999
NMP1L 1407

U. S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, DC 20555

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

Subject: ***Request for Enforcement Discretion to Technical Specification*** **3.1.3.e**

Gentlemen:

On February 17, 1999, following discussions with the NRC Staff, Nine Mile Point Unit 1 (NMP1) was granted enforcement discretion with respect to Technical Specification (TS) 3.1.3.e. The enforcement discretion became effective at 2026 hours on February 17, 1999, and expires at 2026 hours on February 19, 1999. The purpose of this letter is to document the basis of the verbal request and to request written confirmation of the enforcement discretion that was granted.

NMP1 TS 3.2.6.a.1 requires that to be considered operable, Quality Group A, B and C components shall satisfy the requirements contained in Section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda for continued service of ASME Code Class 1, 2 and 3 components, respectively.

TS 3.1.3.a requires that during power operating conditions and whenever the reactor coolant temperature is greater than 212°F, except for hydrostatic testing with the reactor not critical, both Emergency Cooling Systems (ECSs) shall be operable except as specified in TS 3.1.3.b. TS 3.1.3.b states that if one ECS becomes inoperable, TS 3.1.3.a shall be considered fulfilled, provided that the inoperable system is returned to an operable condition within 7 days. TS 3.1.3.e states that if TS 3.1.3.a or 3.1.3.b is not met, a normal orderly shutdown will be initiated within one hour and that the reactor will be in the cold shutdown condition within ten hours.

On February 17, 1999, Niagara Mohawk Power Corporation (NMPC) determined that ASME Code required examinations had not been performed on the ECS Emergency Condenser (EC) vessel welds. Accordingly, both ECSs were declared inoperable and TS 3.1.3.e was entered which required a plant shutdown. To preclude completion of a plant shutdown, NMPC requested enforcement discretion from the requirements of TS 3.1.3.e for 48 hours to perform the required examinations and evaluation of data associated with these examinations.

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NMPC believes there is less risk in continued operation than in forcing an unnecessary plant challenge by taking the plant to the shutdown condition to comply with the requirements of TS 3.1.3.e. Attachment 1 provides NMPC's response to the 12 criteria identified in NRC Inspection Manual 9900, which provides the appropriate justification for this enforcement discretion.

This request for enforcement discretion has been reviewed and approved by the NMP1 Station Operations Review Committee (SORC).

Very truly yours,

John H. Mueller
Chief Nuclear Officer

JHM/JMT/sc
Attachment

xc: Mr. H. J. Miller, Regional Administrator, Region I
Mr. S. S. Bajwa, Director, Project Directorate I-1, NRR
Mr. G. K. Hunegs, Senior Resident Inspector
Mr. D. S. Hood, Senior Project Manager, NRR
Records Management

UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
Niagara Mohawk Power Corporation	)	Docket No. 50-220
	)	
Nine Mile Point Nuclear Station Unit No. 1	)	

AFFIDAVIT

John H. Mueller, being duly sworn, states that he is 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 all such documents are true and correct to the best of his knowledge, information, and belief.

NIAGARA MOHAWK POWER CORPORATION

By _____

John H. Mueller
Chief Nuclear Officer

Subscribed and sworn to before me
this 18th day of February 1999.

_____
NOTARY PUBLIC

BEVERLY W. RIPKA
Notary Public State of New York
Qual. in Oswego Co. No. 4644979
My Commission Exp. 2/28/00

ATTACHMENT 1

REQUEST FOR ENFORCEMENT DISCRETION

1. **The Technical Specification or other license conditions that will be violated.**

Nine Mile Point Unit 1 (NMP1) Technical Specification (TS) 3.2.6 a.1 requires that to be considered operable, Quality Group A, B and C components shall satisfy the requirements contained in Section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda for continued service of ASME Code Class 1, 2 and 3 components, respectively.

TS 3.1.3.a requires that during power operating conditions and whenever the reactor coolant temperature is greater than 212°F, except for hydrostatic testing with the reactor not critical, both Emergency Cooling Systems (ECSs) shall be operable except as specified in TS 3.1.3.b. TS 3.1.3.b states that if one ECS becomes inoperable, TS 3.1.3.a shall be considered fulfilled, provided that the inoperable system is returned to an operable condition within 7 days. TS 3.1.3.e states that if TS 3.1.3.a or 3.1.3.b is not met, a normal orderly shutdown will be initiated within one hour and that the reactor will be in the cold shutdown condition within ten hours.

On February 17, 1999, Niagara Mohawk Power Corporation (NMPC) determined that ASME Code required examinations had not been performed on the ECS Emergency Condenser (EC) vessel welds. Accordingly, both ECSs were declared inoperable and TS 3.1.3.e was entered which required a plant shutdown. To preclude completion of a plant shutdown, NMPC requested enforcement discretion from the requirements of TS 3.1.3.e for 48 hours to perform the required examinations and evaluation of data associated with these examinations.

2. **The circumstances surrounding the situation, including root causes, the need for prompt action, and identification of any relevant historical events.**

The NMP1 EC tube bundles were replaced in the last quarter of 1997. This necessitated the disassembly and reassembly of part of the ECS EC vessels. Section XI of the ASME Boiler and Pressure Vessel Code requires that prior to return of the plant to service, a preservice inspection shall be made in accordance with IWC-2200 for the component and part replaced. Contrary to the above, the preservice examinations were not performed in accordance with Code requirements for the vessel welds. The manufacturer NDE examinations of the vessel welds that could possibly be credited as preservice examinations were performed prior to ASME Section III hydrostatic testing. The Code requires that for vessels, the preservice examinations be performed after ASME Section III hydrostatic testing.

Due to the improper application of the preservice examination requirements of ASME Section XI, TS Surveillance Requirement (SR) 4.2.6.a.1 of the Inservice Inspection and Testing Specification was not satisfied for the four ECs (i.e., the ASME Code examinations were not performed). The failure to perform this SR resulted in the four ECs being inoperable and thereby resulted in both ECSs being declared inoperable. With both ECSs declared inoperable, TS 3.1.3.e requires the plant to be shutdown.

A preliminary evaluation of the cause of the failure to perform the preservice examinations indicates a misunderstanding of the Code requirements during the replacement of the four ECs' tube bundles during the last quarter of 1997.

3. **The safety basis for the request; including an evaluation of the safety significance and potential consequences of the proposed course of action. This evaluation should include at least a qualitative risk assessment derived from the licensee's PRA.**

The NMP1 ECS is a standby system for the removal of fission product decay heat without the loss of reactor water after a reactor scram when the main condenser is not available as a heat sink, or in the event of loss of reactor feedwater. In addition, the ECS aids the Core Spray System and the Automatic Depressurization System (ADS) in providing effective core cooling following a loss of coolant from the reactor. The ECS consists of two independent loops, each with two ECs. The system operates by natural circulation, without the need for power to keep the system in operation. Initiation of the system is automatic, with the appropriate signals from the Reactor Protection System (RPS).

Due to degradation in the previous ECs' pressure boundary between the shell to tube interface, the four ECs' tube bundles were replaced during a unit shutdown that occurred during the last quarter of 1997. These ECs were original plant equipment which were installed during the 1960's when NMP1 was constructed and placed into operation.

NMPC has determined that the ECSs are capable of performing their intended function with the missed examination and that this enforcement discretion is consistent with protecting public health and safety. The basis for this determination is as follows:

- No degradation has been observed since replacement of the tube bundles in any of the four ECs' shell to tube interface that would warrant declaring any EC inoperable due to leakage. This conclusion is based on water chemistry testing of fluid (i.e., radioisotopic composition) on the shell side of the ECs.

- No degradation has been observed since replacement of the tube bundles in any of the four ECs shell side of the condensers that would warrant declaring any EC inoperable due to leakage. This conclusion is based on visual inspections of the shell side of the ECs and the lack of pressure boundary leakage. The tube side of the ECs is pressurized to reactor operating pressure during plant operation.

- Examinations and testing of the subject vessel welds that were successfully performed at the vendor's shop facilities included the following:

    1. Visual Inspection
    2. Liquid Penetration Examinations
    3. Section III Ultrasonic Examinations
    4. Section III Radiographic Examinations
    5. Section III Hydrostatic Testing

- Testing that was successfully performed at NMP1 on the installed ECs which included the subject welds included ASME Section XI pressure testing.

- Consistent with the guidance provided in Generic Letter 87-09, "Sections 3.0 and 4.0 of the Standard Technical Specifications on the Applicability of Limiting Conditions for Operation and Surveillance Requirements," the vast majority of surveillances do in fact demonstrate that systems or components are operable. Therefore, it is reasonable to assume that systems or components are still operable when a Surveillance Requirement has not been performed and thus that the ECSs will perform their safety function.

- The baseline core damage frequency (CDF) with all four ECs operable is 2.54 E-05 per year. The CDF associated with all four ECs out of service is 2.0 E-04 per year. Assuming all four ECs are out of service for a 48 hour period, the integrated risk (i.e., core damage probability) for the period of enforcement discretion is 1.0 E-06.

4. The basis for the licensee's conclusion that the noncompliance will not be of potential detriment to the public health and safety and that neither an unreviewed safety question nor a significant hazard consideration is involved.

NMPC has evaluated this request using the criteria set forth in 10CFR50.92, and determined that it does not involve a significant hazards consideration nor an unreviewed safety question.

NMPC has evaluated the missed ASME Code examination and has concluded that there is no significant hazards consideration involved with the requested enforcement discretion. The significance of not performing the examination has been found not to be of potential detriment to the public health and safety based upon the evaluation provided in Item 3, which concludes that the ECs are capable of performing their safety function. Thus, there is no safety consequence associated with the request for enforcement discretion.

Operation of NMP1 in accordance with the enforcement discretion will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Based on the recent replacement of the ECs' tube bundles, the successful completion of the above testing and inspections, the absence of external leaks of the ECs and the acceptable water chemistry results on the shell side of the ECs, NMPC has concluded that the ECs are capable of performing their safety function during accident conditions. Accordingly, there is not a significant increase in the probability or consequences of an accident previously evaluated.

Operation of NMP1 in accordance with the enforcement discretion will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Based on the recent replacement of the ECs' tube bundles, the successful completion of the above testing and inspections, the absence of external leaks of the ECs and the acceptable water chemistry results on the shell side of the ECs, NMPC has concluded that the ECs are capable of performing their safety function during accident conditions. No system configuration changes result from this request for enforcement discretion. Accordingly, the enforcement discretion will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Operation of NMP1 in accordance with the proposed enforcement discretion will not involve a significant reduction in a margin of safety.

The four ECs' tube bundles were recently replaced (i.e., last quarter of 1997). Vendor shop and onsite examinations have been successfully completed for each of the ECs. Based on the recent replacement of the ECs' tube bundles, the successful completion of the above testing and inspections, the absence of external leaks of the ECs and the

acceptable water chemistry results on the shell side of the ECs, NMPC has concluded that the ECs are capable of performing their safety function during accident conditions. Accordingly, the proposed enforcement discretion will not involve a significant reduction in a margin of safety.

5. **The basis for the licensee's conclusion that the noncompliance will not involve adverse consequences to the environment.**

The enforcement discretion involves the NMP1 ECs. The requested enforcement discretion does not involve an increase in the amounts or types of any effluents that may be released offsite nor an increase in individual or cumulative occupational radiation exposure. Also, the requested enforcement discretion does not physically modify the plant, increase the plant's licensed power level or involve irreversible environmental consequences.

6. **Any proposed compensatory measures.**

During the 48 hours for which the enforcement discretion is requested, no activities (e.g., preventive maintenance or surveillance testing) will be performed in the plant that would render a Core Spray System or the ADS inoperable. Currently, the NMP1 Core Spray and ADS Systems are operable. Although the ECSs are inoperable, the ECSs will be maintained available.

7. **The justification for the duration of the noncompliance.**

NMPC requests enforcement discretion from TS 3.1.3.e for no greater than 48 hours from February 17, 1999 at 2026 hours until February 19, 1999, at 2026 hours. The requested duration of time is needed to allow performance of the required examinations and evaluation of data associated with these examinations.

8. **A statement that the request has been approved by the facility organization that normally reviews safety issues.**

This request for enforcement discretion was reviewed and approved by the NMP1 Site Operations Review Committee (SORC).

9. The request must specifically address how one of the NOED criteria for appropriate plant conditions specified in Section B is satisfied.

NMP1 is currently operating. Section B of Part 9900, Criteria 1, states that for an operating plant, the enforcement discretion is intended to (a) avoid undesirable transients as a result of forcing compliance with the license condition and, thus, minimize potential safety consequences and operation risks or (b) eliminate testing, inspection, or system realignment that is inappropriate for the particular plant conditions. This enforcement discretion meets criterion 1(a) in that entry into TS 3.1.3.e would require a plant shutdown. NMPC believes there is less risk in continued operation than in forcing an unnecessary plant challenge by taking the plant to a shutdown condition to comply with the requirements of TS 3.1.3.e.

10. If a follow-up license amendment is required, the NOED request must include marked up Technical Specification pages showing the proposed Technical Specification changes. The actual license amendment request must follow within 48 hours.

No follow-up license amendment is required as part of this enforcement discretion. The required examinations and evaluations will be performed by 2026 hours on February 19, 1999.

11. A statement that prior adoption of approved line item improvements to the Technical Specifications or the ITS would not have obviated the need for the NOED request.

There are no current plans to convert NMP1 to the ITS. If NMP1 were converted to the ITS, the need for Staff approval of this enforcement discretion would be eliminated. NMPC would alternatively develop an operability assessment of the emergency condensers using similar logic that is contained in this justification.

12. Any other information the NRC staff deems necessary before making a decision to exercise enforcement discretion.

NMPC knows of no additional information that is necessary for processing this request.