

September 8, 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: NOTICE OF ENFORCEMENT DISCRETION FOR NIAGRA MOHAWK
POWER CORPORATION (NMPC) REGARDING NINE MILE POINT UNIT 2
(NOED No. 99-1-005)**

Dear Mr. Mueller:

By letter dated September 3, 1999, you requested that the NRC exercise discretion not to enforce compliance with the actions required in Nine Mile Point Unit 2 Technical Specification (TS) 3.4.3.1, Action d (i.e., allow continued operation of Unit 2 with both the drywell floor drain and the drywell equipment drain tank fill rate monitoring systems inoperable). Your letter documented information previously discussed in a telephone conference call on September 3, 1999, at 1:30 p.m. with NRC staff members, including Satwant Bajwa, Chief, Section 1, Project Directorate 1, Division of Licensing Project Management (DLPM), Office of Nuclear Reactor Regulation and me. During the conference call, your staff stated that as of September 3, at 11:12 a.m., NMPC had been unable to restore either of the monitoring systems to an operable status within the 24 hour Allowed Outage Time (AOT) of TS 3.4.3.1, Action d, which required that the plant be in hot shutdown within the next 12 hours (by 11:12 p.m. on September 3, 1999). NMPC requested that a Notice of Enforcement Discretion (NOED) be issued for TS 3.4.3.1, Action d, to extend the AOT by 24 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. This letter documents our telephone conversation when we orally issued this NOED for the period beginning at 2:38 p.m., on September 3, 1999, and ending not later than 2:38 p.m., on September 4, 1999. We understand that the condition causing the need for the NOED was corrected by your staff and resulted in you exiting from TS 3.4.3.1, Action d, and from this NOED on September 4, 1999, at 6:50 a.m.

The drywell floor and equipment drain tank fill rate monitoring systems were inoperable because their respective chart recorders were intermittently spiking high off scale due to the failure of a common analog input module. As a result, the monitoring systems were not capable of electronically processing instrumentation sensor data and providing reactor coolant system fill rate indications in the control room. Accordingly, TS 3.4.3.1, Action d was entered. NMPC requested this NOED after the consideration of the safety significance and potential consequences led your staff to conclude that completing repairs to the monitoring systems at power was more appropriate than shutting down Unit 2 in accordance with TS 3.4.3.1. That

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conclusion was based, in part, on NMPC's determination that the monitor spiking was not indicative of leakage in the primary containment; that manual calculations could be performed to provide reactor coolant system fill rate data; and that other parameters could be monitored in the control room to assure prompt identification of any changing conditions within the primary containment. As compensatory measures during the period of the NOED, your staff periodically recorded the instrumentation sensor data from the drain tank monitoring systems; performed manual calculations to provide reactor coolant system fill rate data; and maintained both the primary containment airborne gaseous and particulate radioactivity monitoring systems operable and monitored their output hourly from the control room.

The NRC's basis for the discretion included verification that there was no known degradation in the reactor pressure vessel boundary, that there had been no noticeable change in recent weeks in the drywell floor and equipment drain leak rates, and that alternative leak detection methods were being used as compensatory measures. In addition, our basis considered that the Improved Standard Technical Specifications contain a less restrictive 30-day AOT for the same equipment being out of service.

On the basis of the staff's evaluation of your request, we concluded that to avoid an undesirable transient as a result of forcing compliance with the license condition, an NOED was warranted because the action involved no safety impact, was consistent with the enforcement policy and staff guidance, and had no adverse impact on public health and safety. Therefore, we exercised discretion to not enforce compliance with Nine Mile Point Unit 2 TS 3.4.3.1 for the period 2:38 p.m. on September 3, 1999, until 6:50 a.m. on September 4, 1999. As I discussed with NMPC by telephone on September 3, 1999, our ability to decide promptly on your request was due, in part, to the straightforwardness of the technical issue; however, in the future it would be advisable for your staff to enter earlier into the detailed technical discussions with the NRC staff when an NOED request is an option that you are considering.

As stated in the Enforcement Policy, action will 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:

A. Randolph Blough, Director
Division of Reactor Projects

Docket No. 50-410
NOED No. 99-01-005



John H. Mueller

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cc:

G. Wilson, Esquire

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.

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and Development Authority

J. Spath, Program Director, New York State Energy Research
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John H. Mueller

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