UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
ARIZONA PUBLIC SERVICE COMPANY	)	Docket No. 50-328
Palo Verde Nuclear Generating Station	)	Construction Permit No. CPPR-141
Unit No. 1	)	EA 83-30
	)	EA 83-130

ORDER IMPOSING A CIVIL MONETARY PENALTY

I

Arizona Public Service Company, P. O. Box 21666, Phoenix, Arizona, 85036 (the "Licensee") is the holder of Construction Permit CPPR-141 issued by the Nuclear Regulatory Commission ("NRC" or the "Commission"). The Construction Permit authorizes construction of the Palo Verde Nuclear Generating Station facility in Maricopa County, Arizona. The Construction Permit was issued on May 25, 1976, and is due to expire on December 31, 1984.

II

A special inspection of the licensee's activities under the Construction Permit was conducted at the Palo Verde plant by an NRC special inspection team during the period of September 6 - November 1, 1983. As a result of the inspection, the NRC staff determined that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the

licensee by letter dated December 12, 1983. The Notice stated the nature of the violations, the provision of the NRC regulations violated, and the amount of the civil penalties proposed for each of the violations. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties in a letter dated January 31, 1984.

III

Upon consideration of the licensee's reply to the Notice of Violation and arguments for mitigation of the proposed civil penalty, the Director of the Office of Inspection and Enforcement, for the reasons set forth in the Appendix to this Order, has determined that the penalty proposed for the violation identified in paragraph I.A. in the Notice of Violation and Proposed Imposition of Civil Penalties should be mitigated by 50% based upon the licensee's prompt and extensive corrective action. The violation identified in Paragraph I.B of said Notice shall be the subject of future action as requested by the licensee.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, PL 96-295), and 10 CFR 2.205, IT IS HEREBY ORDERED THAT:

The licensee pay a civil penalty in the amount of Twenty Thousand Dollars ($20,000) within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, DC 20555.

V

The licensee may, within 30 days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings; if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) whether the licensee violated Appendix B requirements as set forth in paragraph I.A. of the Notice of Violation and Proposed Imposition of Civil Penalties; and

(b) whether, on the basis of such violation, this Order should be sustained.

FOR THE NUCLEAR REGULATORY COMMISSION

Richard C. DeYoung, Director
Office of Inspection and Enforcement

Dated at Bethesda, Maryland
this 3rd day of April 1984

APPENDIX

EVALUATION AND CONCLUSION

In the licensee's January 31, 1984 response to NRC's Notice of Violation and Proposed Imposition of Civil Penalties dated December 12, 1984, the licensee admits that (1) the discrepant conditions identified in the four examples cited in Section I.A did exist in September 1983, (2) there was no documentation or records of such discrepant conditions, and (3) such conditions were identified by the NRC Construction Assessment Team. Nevertheless, the licensee denies that the discrepant conditions constitute a violation of NRC requirements and protests the imposition of civil penalties, and if such is disallowed, requests remission or mitigation of the civil penalty proposed by the notice. A statement of the violation, a summary of the licensee's response, and NRC's evaluation and conclusions are presented as follows:

Statement of Violation

I.A. 10 CFR 50, Appendix B, Criterion II, as implemented by Chapter 17 of the licensee's PSAR and FSAR, requires in part that: "The quality assurance program shall provide control over activities affecting the quality of the identified structures, systems, and components, to an extent consistent with their importance to safety."

Contrary to the above requirements, the licensee's quality assurance program did not maintain adequate control over activities affecting quality as evidenced by the following examples:

1. On September 10, 1983, it was determined that the containment pressure instrumentation was incapable of performing its intended safety function in that caps had been installed on the sensing lines. Construction of the containment and pressure sensing systems had been completed, turned over from the constructor to the licensee, and tested. Subsequently, the quality assurance organization directed that the caps be installed without following established QA procedures for correcting potential deficiencies. No administrative requirement existed to assure that the caps would have been discovered until the next scheduled containment leak rate test, pursuant to the operating license requirements. This containment pressure instrumentation is required to automatically initiate the HPSI and other safety systems on high containment pressure.

2. On September 7, 1983, the manual operator for valve SI V470 on the suction of the HPSI "A" pump was disconnected and resting on the sprinkler system piping. Construction of the subsystem had been completed, turned over to the licensee, and was undergoing pre-operational testing. There was no record of the defective and/or nonconforming condition which included a missing stud nut and leaking flange.

3. On September 28, 1983, the position indicator for valve SI V402 on the suction of the HPSI "B" pump was positioned so that the valve could only be opened 30 to 35 percent of its full open position.

Construction of this subsystem had been completed, turned over to the licensee, and was undergoing preoperational testing. There was no record of the defective and/or nonconforming condition.

4. On September 14, 1983, 87 3/8-inch bolts were missing from the base frames for six motor control centers (MCC) of the vital AC onsite power distribution system. These bolts are necessary to ensure the structural integrity of the MCCs.

This is a Severity Level III Violation, (Supplement II). (Civil Penalty - $40,000)

Summary of Licensee Response

I.A.1 Containment Pressure Sensing Line Caps

The licensee admits to the conditions of the sensing line caps, states some preoperational tests had been done, and states that the caps were installed by direction of QA but not documentated. The licensee also states that the system had not been turned over to operations. The licensee further states there was no regulatory requirement to document the installation of the caps and that the required action in response to IE Notice 84-23 would have assured cap removal.

I.A.2 Manual Operator Disconnected, and Missing Stud Nut with Leaking Flange

The licensee admits to the conditions found, but states preoperational testing was not complete, the valve had not been accepted by operations and that further preoperational testing would have discovered the problems. The licensee further states, that the as found condition of the valve would have had no impact on the safe operation of the system. The licensee further states the valve was improperly reassembled after turnover to the startup organization.

I.A.3 Improper Installation of a Position Indicator Limited Valve Travel

The licensee admits to the conditions found but states the valve had not been accepted by operations, preoperational testing was not complete, and no uncontrolled work had been performed on the valve. The licensee also states the as-found condition would have had no impact on the safe operation of the system. The licensee further stated the valve had been stroked by APS operators and the valve was assumed to be full open.

I.A.4 Missing Bolts

The licensee denies that any bolts necessary for structural integrity are missing from the MCC's. However, the licensee states that the vendor installation drawings indicate that a portion of the eighty-seven identified missing bolts should have been installed but subsequent analysis showed that they were not essential for the structural integrity of the MCCs.

NRC Evaluation

As stated in the introduction of 10 CFR 50, Appendix B, the NRC quality assurance requirements apply to all activities affecting the safety-related functions of structures, systems and components in nuclear power plants that prevent or mitigate the consequences of postulated accidents that could cause undue risk to the health and safety of the public; these activities include designing, purchasing, fabricating, handling, shipping, storing, cleaning, erecting, installing, inspecting, testing, operating, maintaining, repairing, refueling and modifying.

In addition, as stated in Criterion I of 10 CFR 50, Appendix B, safety-related activities include both the performing functions of attaining quality objectives and the quality assurance functions. The quality assurance functions are those of (a) assuring that an appropriate quality assurance program is established and effectively executed and (b) verifying, such as by checking, auditing, and inspection, that activities affecting safety-related functions have been correctly performed.

Although strictly speaking, failure to properly perform a work function is a violation of the NRC quality assurance criteria (Criterion V), the NRC's Enforcement Policy (10 CFR Part 2, Appendix C) provides that Notices of Violation will not be issued for a particular violation when the defective condition is identified; is of a Severity Level IV or V; is reported, if required; is corrected within a reasonable time; and is not a violation that could reasonably be expected to have been prevented by a previous corrective action.

In essence the NRC quality assurance criteria require that all safety-related work be performed pursuant to approved instructions, procedures or drawings and verified, as appropriate, by inspection, checking, testing or auditing.

As admitted in the licensee's response, summarized above, the identified discrepant conditions occurred as a result of individuals performing work or otherwise doing an act or not doing an act that should have been done that affects safety-related structures, systems and components without the use of and contrary to approved instructions, procedures and drawings. As discussed above, all work on safety-related items must be controlled subsequent to initial installations and inspection to assure that the original quality of the items are not degraded and that any modifications are appropriately reviewed and approved as provided for in the NRC quality assurance criteria.

The licensee's contention that each of the items when viewed singularly should not represent a significant safety concern on the part of the NRC and, therefore, its inference that the cumulative aspects of the items are also insignificant does not have merit. Discrepant conditions were found by the NRC inspection staff in three vital safety-related systems (containment, emergency core cooling, and electrical) that should have been prevented and/or identified by the licensee had the licensee's quality assurance program been functioning as required by the NRC requirements. A malfunctioning quality assurance program is significant to safety and must be corrected. In view of the foregoing the NRC viewed the conditions as cause for significant concern

in that the circumstances surrounding the conditons evidenced a breakdown in the quality assurance program amounting to more than isolated instances. Therefore, the cited violation was properly categorized a Severity Level III.

Request for Remission or Mitigation

In Attachment E of the licensee's response, the licensee protests the imposition of a civil penalty, and if disallowed, requests remission or mitigation of the civil penalty proposed by the Notice. The licensee has not provided adequate reasons for disallowing or remitting the civil penalty; however, mitigation of the civil penalty for actions taken by the licensee was reviewed and considered appropriate. The corrective action taken which includes, among other actions, initiation of an independent assessment immediately following the special team inspection, suspension of startup work taken on the licensee's own initiative, reorganization of the management structure, and the direct involvement of the most senior corporate management was found to be unusually prompt and extensive. Therefore, mitigation of the penalty in the amount of 50% is allowed.

Conclusion

The violation identified in Section I.A. of the Notice of Violation and proposed Imposition of Civil Penalties did occur as orginally stated. However, as discussed above, the civil penalty has been mitigated 50% based upon the licensee's prompt and extensive corrective action.