

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)

NIAGARA MOHAWK POWER CORPORATION.)
(Nine Mile Point Nuclear Station))

Docket No. 50-220

WITHDRAWAL OF ORDERED MODIFICATION AND
ORDER TO SHOW CAUSE AND TERMINATION OF PROCEEDINGS THEREON

I

The Niagara Mohawk Power Corporation (the licensee) is the holder of Facility Operating License No. DPR-63, which authorizes the licensee to operate the Nine Mile Point Nuclear Station (the facility) at power levels not in excess of 1850 megawatts thermal (rated power). The facility is a boiling water reactor located at the licensee's site in Oswego County, New York.

II

On November 26, 1980 the Director of the Office of Inspection and Enforcement, issued an "Order for Modification of License (Effective Immediately) and Order to Show Cause" (hereinafter "the November 26 orders") to the licensee based upon certain actions by employees of the licensee in responding to regulatory requirements imposed upon the licensee by the Nuclear Regulatory Commission as a consequence of the Three Mile Island Unit 2 accident on March 28, 1979, all as more particularly set out in the November 26 orders.

DUPE 8103300498 (4pp)



Various responses to the November 26 orders have been submitted by the licensee and one of the affected employees. Several meetings have been held with the licensee and the employee and their representatives. Further investigations have also been conducted. Based upon all of the information thus gathered, the impact the November 26 orders have already had, and the licensee's willingness to pay reduced civil penalties of \$215,000, I have concluded that Parts VI.A.(1) and B of the previously ordered license amendment and the order to show cause should be withdrawn and the proceedings thereon terminated.

III

With respect to the withdrawal of the amendment which removed the former General Superintendent, Nuclear, Mr. T. J. Perkins, from involvement in nuclear matters, I have concluded that this employee, while making an error in judgment, did not do so to knowingly deceive the Nuclear Regulatory Commission or to impair public health and safety. I conclude that he generally felt the degree of implementation achieved by the licensee on December 31, 1980, was adequate and that the absence of the cave did not affect implementation of item 2.1.8.b. This employee, in effect, concluded the cave was not significant with respect to the performance of the effluent monitoring system under accident conditions. And, while his judgment in this matter was without sound engineering basis, his action was caused by mistaken judgment rather than an intent to willfully withhold or deceive.



Mr. Perkins has been in the service of the licensee for 27 years and has been involved in its nuclear activities since 1964, a period of 17 years. During this time span, his involvement with nuclear matters has been extensive and his performance in dealing with nuclear matters and with the Nuclear Regulatory Commission has been good. There is no evidence to suggest that his mistaken judgment with respect to his actions in this instance was other than an isolated occurrence. There is an absence of a pattern of conduct on the part of this employee which would indicate any deficiency with respect to his credibility. In view of all of the above considerations I believe his restoration to duty is consistent with the public health and safety. This judgment is supported by the attitude of the employee exhibited to the NRC personnel from my office who conducted the inspections and investigations into this matter. Throughout that process, he exhibited a forthright and frank attitude at all times. At no time was there any evidence that he sought to conceal either the actions he took, or the reasons behind them. His actions in this regard are consistent with the candor and integrity which I view as essential to enable the Nuclear Regulatory Commission to carry out its public health and safety mandate. Accordingly, I have concluded that the four-month removal of Mr. Perkins from his duties has been adequate to emphasize the need for complete accuracy in dealing with the Commission.

My decision to withdraw the show cause order involving the Executive Vice President, Mr. James Bartlett, is based upon the licensee's and his



recognition that more diligence must be applied in verifying the complete accuracy of documents supplied to the Nuclear Regulatory Commission. This recognition is reflected in the implementation of new procedures, specifically, "Nuclear Generation Staff Procedure Preparation of NRC Submittals For Nine Mile Point Unit 1" (effective December 31, 1980) and "Nine Mile Point Nuclear Station Site Administrative Procedures, Procedure No. APN-16" (effective December 31, 1980), which should prevent the recurrence of inaccurate or incomplete submittals.

IV

In view of the foregoing, and pursuant to section 161(i) of the Atomic Energy Act of 1954, as amended, those portions of the November 26 Orders pertaining to Mr. Perkins and Mr. Bartlett (Parts VI.A(1) and B) are hereby withdrawn and the proceedings thereon terminated effective this date.

FOR THE NUCLEAR REGULATORY COMMISSION



Victor Stello, Director
Office of Inspection and Enforcement

Dated at Bethesda, Maryland
this 20 day of March , 1981



THE UNIVERSITY OF
 THE SOUTH AFRICAN
 AIR FORCE

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

11.

12.

13.

14.