



# ATLANTIC STATES LEGAL FOUNDATION, INC.

May 14, 1990

Chair Kenneth Carr  
Commissioner Thomas Roberts  
Commissioner Kenneth Rogers  
Commissioner Forrest Remick  
Commissioner James Curtiss  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

In Regard to Nine Mile Point Unit 1

Dear Chair Carr and Commissioners:

I am writing on behalf of Retire Nine Mile 1, an organization made up of people who live in upstate New York, many of them very close to the Nine Mile Point Unit 1 nuclear generating station, who believe that from both an economic and safety point of view, Nine Mile Point Unit 1 should be decommissioned.

The Nine Mile Point Unit 1 plant has been closed since December, 1987, and we are writing to urge the Commission to keep it closed until the Commission holds full and complete evidentiary hearings to consider the following concerns of Retire Nine Mile 1. We believe that without a hearing and a full examination the NRC cannot assure the requisite health and safety of the public.

Since a briefing by the Staff on Nine Mile Point Unit 1 is on the Commission agenda for May 14, 1990 the Staff may be in agreement with Niagara Mohawk that the plant is ready for restart. If so, the Staff surely must have answers to the following questions which members of Retire Nine Mile 1 hereby request.

## GENERIC ISSUES

1. Has Niagara Mohawk completed the actions required by all generic letters and bulletins issued by the NRC applicable to Nine Mile Point Unit 1?

2. If not, please have the NRC Staff identify the safety

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requirements addressed in the generic letters and bulletins which have not been completed at Nine Mile Point Unit 1 and explain why Nine Mile Point Unit 1 should be allowed to restart without implementing safety requirements which the NRC itself has determined are needed.

#### THE INTEGRITY OF THE TORUS

We are aware of the NRC's response of June 5, 1989 to the Ecology Center of Southern California's generic complaint about the General Electric Mark I containment. We believe that Nine Mile Unit 1 can be distinguished from the NRC's response to that Petition because in the specific case of Nine Mile Point Unit 1, there is continuing evidence of the thinning of the torus walls.

While Niagara Mohawk contends in their letter to the Commission of November 22, 1989 that there is "sufficient wall thickness...to provide at least one additional operating cycle at Nine Mile Point Unit 1 before corrective actions must be taken", recent reports of accelerated corrosion rates at Oyster Creek raise grave doubts about the validity of the basis of Niagara Mohawk's assertions.

Members of Retire Nine Mile 1 especially request that the Commission ask the following questions, and provide us with the answers before allowing the plant to restart:

1. For what percentage of the torus wall have thickness measurements been made?
2. What were the results?
3. Has the NRC or will the NRC require Niagara Mohawk to measure the thickness of the entire torus before permitting the plant to restart? If not, why not?
4. What is the minimum required wall thickness?
5. What is the standard or basis for saying that that is the minimum required torus wall thickness given that the torus at Nine Mile Point Unit 1 (and at Oyster Creek) were--unlike all other Mark I containments--originally designed only to withstand a lower pressure than the drywell? In all subsequent Mark I containments the torus and drywell have the same design pressure and thus have thicker torus walls than Nine Mile Point Unit 1.
6. Niagara Mohawk contends in a March, 1990 Economic Analysis of Continued Operation of the Nine Mile Point Unit 1 Nuclear



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Station prepared for the New York Public Service Commission, page S-4, that it will cost "less than \$15 million to correct" the torus. What is the purpose of postponing this repair given the relatively low cost of such repair compared to the already great incurred cost of the present prolonged outage and the potential risk to the health and safety of the public of postponement?

**THE INTEGRITY AND COMPETENCE OF MANAGEMENT**

Recently it was revealed (by a local television station and not Niagara Mohawk) that a spill of radioactive water was concealed by Niagara Mohawk from the NRC and, of course, the public for eleven years. The same management which elected to illegally keep secret important regulatory information is still "in charge".

Management inability to guarantee performance standards and quality control has been a continuing theme of the NRC's complaints about Nine Mile Point Unit 1. Indeed, complaints about management competence and veracity have been a feature of both state and federal regulation of Niagara Mohawk for years.

Given the great deal of attention that the NRC focused on managerial competence and integrity at Three Mile Island, we believe that their importance cannot be overstated. With this background, what basis is there now for believing that Niagara Mohawk has the requisite integrity and technical competence to operate Nine Mile Point Unit 1? Specifically, can the Commission be sure that the health and safety of the public can be assured given the most recent SALP report which continues to document operator failure?

In conclusion, the members of Retire Nine Mile 1 believe that a decision to permit restart, made under pressure from a financially prostrate utility can hardly provide the public with any assurance that the decision is based only on the company having achieved an adequate level of safety. Moreover, we believe that such assessment can be reached only after a full evidentiary hearing where members of Retire Nine Mile 1, other members of the public, and state officials can participate.

Sincerely yours,

*Rosemary S. Pooler*

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Vice President for Legal Affairs



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