

06 DEC 1989

Docket Nos. 50-220  
50-410

Niagara Mohawk Power Corporation  
ATTN: Mr. Lawrence Burkhardt, III  
Executive Vice President  
Nuclear Operations  
301 Plainfield Road  
Syracuse, New York 13212

Gentlemen:

Subject: Public Comments on the Restart Action Plan/Restart of Nine Mile Point Unit 1 Received from the Public - NRC Responses to Those Comments

This letter addresses the August 23, 1989, public meeting held in Oswego, New York, to receive comments on the Restart Action Plan (RAP). Based on review of the transcript of the comments from this meeting and of written comments received by mail, the NRC staff, through its Restart Assessment Panel, has concluded that no changes are needed to the RAP. This conclusion was previously noted in the NRC approval of the RAP in a letter dated September 29, 1989.

By transmittal to the Local Public Document Room, the attachment to this letter provides responses to the specific comments. A response has been provided to each comment. The responses are grouped according to those comments directly related to the RAP (29 comments) and those comments generally related to Nine Mile Point (20 comments).

Although the comments are provided for your information, comment 35 raised a concern regarding the turning off of radiation monitors during discharges and unusual events. This allegation was forwarded for your review in a separate letter dated October 12, 1989.

We appreciate your cooperation.

Sincerely,

WILLIAM F. KANE BY  
William F. Kane, Director  
Division of Reactor Projects

Attachment:  
As stated

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C. Mangan, Senior Vice President  
W. Hansen, Manager, Corporate Quality Assurance  
C. Beckham, Manager, Nuclear Quality Assurance Operations  
J. Perry, Vice President, Quality Assurance  
J. Willis, General Station Superintendent  
C. Terry, Vice President, Nuclear Engineering and Licensing  
K. Dahlberg, Unit 1 Station Superintendent  
R. Randall, Unit 1 Superintendent, Operations  
R. Smith, Unit 2 Superintendent, Operations  
R. Abbott, Unit 2 Station Superintendent  
G. Wilson, Senior Attorney  
T. Conner, Jr., Esquire  
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J. Warden, New York Consumer Protection Branch  
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State of New York, Department of Law  
Public Document Room (PDR)  
Local Public Document Room (LPDR)  
Nuclear Safety Information Center (NSIC)  
NRC Resident Inspector  
State of New York

bcc w/Attachment:

Region I Docket Room (with concurrences)  
J. Wiggins, DRP  
G. Meyer, DRP  
D. Limroth, DRP  
R. Barkley, DRP  
S. Horwitz, PAO  
M. Miller, SLO  
W. Cook, SRI - Nine Mile  
R. Temps, RI - Nine Mile  
R. Laura, RI - Nine Mile  
J. Dyer, EDO  
R. Capra, NRR  
M. Slosson, NRR  
R. Martin, NRR



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ATTACHMENT

Public Comments on the Restart Action Plan

1. Comment: The financial viability of Niagara Mohawk Power Corporation should be evaluated as part of the Restart Action Plan (RAP).

Response: The financial viability of Niagara Mohawk is evaluated by the NRC with respect to the ability of Niagara Mohawk to safely operate Nine Mile Point. During the public Commission status briefing on August 2, 1989, the Commission questioned Niagara Mohawk with regard to its financial viability and its ability to safely operate Nine Mile Point. Niagara Mohawk assured the Commission that sufficient funds are available to safely operate the units. In summary, the Commission will continue to monitor Niagara Mohawk's activities to ensure that financial concerns do not interfere with the safe operation of the plants, but disagrees that the issue requires inclusion in the RAP.

2. Comment: The torus should be repaired prior to restart.

Response: Both the Niagara Mohawk Power Corporation (NMPC) and the NRC have known about the corrosion of the wall of the torus at Nine Mile Point Unit 1. The thinning of the torus wall will be addressed in the resolution of RAP Specific Issue No. 7 prior to restart. NMPC will be required to perform repairs to the torus prior to restart if the torus wall has corroded beyond the minimum requirements of the American Society of Mechanical Engineers (ASME) Code governing the adequacy of this vessel. Thus, this issue is already addressed in the RAP.

3. Comment: NDE surveillance of the torus should be conducted by people other than NMPC that do not have a vested interest in keeping the plant running.

Response: The NDE surveillance of the torus wall at Nine Mile Point Unit 1 is presently conducted by a contractor for Niagara Mohawk as well as by Niagara Mohawk employees. The results of the NDE examinations are independently reviewed by the Niagara Mohawk Quality Assurance Department and by the NRC (upon the submittal for the resolution of RAP Specific Issue No. 7). In addition, Niagara Mohawk's Inservice Inspection (ISI) program, particularly their NDE methods, was reviewed in detail by NRC Region I during Inspection 50-220/88-81 and determined to be acceptable.



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This inspection included independent wall thickness measurements performed by the NRC. Finally, as an alternative confirmation of the structural strength of the torus wall, Niagara Mohawk will be performing an Integrated Leak Rate Test (ILRT) of the containment prior to the restart of the plant to satisfy the requirements of 10 CFR 50 Appendix J.

In summary, based on this degree of oversight of the NDE surveillance on the torus wall, Niagara Mohawk's present NDE surveillance program on the torus is structured in accordance with all applicable NRC requirements and the NRC does not agree that reviews by additional parties are warranted.

4. Comment: Long-term management improvement plans should be implemented and goals achieved before restart of Unit 1.

Response: Niagara Mohawk has formulated a Nuclear Improvement Program (NIP) to improve their overall level of performance both prior to and following the restart of Nine Mile Point Unit 1. The NIP embodies a number of plans for long-term improvements in management and worker performance and goals to measure the success of that program. Niagara Mohawk has determined, and the NRC has agreed that these improvements are important but are not essential for the safe operation of the facility following restart, provided that the management issues in the RAP are resolved prior to restart. Thus, the issue is properly addressed in the NIP.

5. Comments: RAP Section 2, page II-9 - Part of the RAP long-term strategy for improving management performance is to identify training and development programs for manager, supervisor and employee intra-personal and management skills, etc. Shouldn't these be implemented prior to restart?

Response: Above response to Comment No. 4 applies

6. Comment: NMPC should prove that the RAP works before restart is authorized.

Response: The NRC's approach toward approving restart of Nine Mile Point Unit 1 has been structured in the following manner:

- i. Niagara Mohawk developed and implemented a Restart Action Plan (RAP).
- ii. The NRC reviewed the RAP for approval.



- .. iii. Niagara Mohawk conducted a self-assessment of their readiness for restart.
- iv. NRC will review the quality and conclusions of the self-assessment.
- v. NRC will conduct an Integrated Assessment Team Inspection of the Nine Mile Point 1 organization and its ability to safely operate the facility.
- vi. A decision will be made by the Region I Regional Administrator regarding restart.

The NRC believes that the process, as outlined, is sufficient to determine the effectiveness of the RAP and the ability of Niagara Mohawk to safely operate the facility and is consistent with the intent of this public comment. This process has been followed successfully at other problem plants.

7. Comment: Nine Mile Point is unsafe based on the recent disclosures of the magnitude of the waste spill at Unit 1 plus the close to 50 percent failure rate of the operators at Unit 2.

Response: The waste spill in the radwaste storage building at NMP Unit 1 was investigated by an Augmented Inspection Team (AIT) from the NRC in August, 1989. The results of that team inspection indicate that the spill, while an example of poor operating practice, was never a hazard to the public health and safety and was properly surveyed and controlled by the NMPC health physics department to ensure that the spill did not pose a threat to plant workers. NMPC has also included the cleanup activity in the NIP. The specific management problems that led to this condition are addressed in RAP Items 1-5.

The high failure rate of the licensed reactor operators at Unit 2 during the recent requalification examination was attributed to weaknesses in the requalification training program. However, sufficient operators had successfully passed an NRC-administered requalification examination to allow the plant to continue to operate with shift crews augmented by extra personnel to compensate for the deficiencies noted until remediation could be completed. NMPC has also implemented a remedial training program to improve requalification training in the deficient areas noted. The examination results were indicative of significant

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weaknesses in the requalification program which required correction but not of the scope or depth that would pose significant public health and safety concerns. The adequacy of the operator training program at Unit 1 will be thoroughly reviewed prior to restart to resolve RAP Specific Issue Nos. 2 and 3.

In summary, the NRC disagrees with this comment.

8. Comment: NRC reporting requirements/problems should be defined in the RAP.

Response: NMPC does not have a chronic history of failing to make NRC required notifications and reports. Based on past history, this issue is not required in the RAP as a specific technical issue requiring resolution. NRC reporting requirements are presently outlined in 10 CFR 50.72 and 50.73 as well as the NMP Unit 1 TS.

9. Comment: There should be a public hearing/evidentiary proceeding prior to restart.

Response: As specified in the Code of Federal Regulations Title 10 Part 2.206, "Any person may file a request to institute a proceeding pursuant to §2.02 to modify, suspend, or revoke a license, or for such other action as may be proper." Requests made in accordance with 10 CFR 2.206 will be reviewed and evaluated by the NRC. Typically, a proceeding would not be held prior to the restart of a unit such as Nine Mile Point Unit 1, because the evaluation of the restart of the unit is not a change to the operating license. Thus, the NRC disagrees with this comment.

10. Comment: Provide the details of the original problems leading to the shutdown, including the delays in that shutdown and all subsequent problems prolonging that shutdown to the LPDR. Also, ensure that the last several SALPs are in the Local Public Document Document Room (LPDR).

Response: The LPDR routinely receives copies of the publicly distributed NRC correspondence, including SALPs. The NRC will review the availability of the public documents relative to the shutdown in the LPDR and ensure the appropriate ones exist there.

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11. Comment: The RAP should clearly state what verifications will be done in the presence of NRC inspectors.

Response: As a condition of the license for Nine Mile Point Unit 1, Niagara Mohawk is subject to unannounced NRC inspections to determine its compliance with the terms of the license and to assess its ability to safely operate the facility. However, the NRC has not found it necessary in this case that certain licensed activities be conducted in the presence of NRC inspectors. Although the NRC will not require NMPC to conduct any of the activities outlined in the RAP in the presence of NRC inspectors, we will review those actions deemed necessary to assure that the concerns addressed by the RAP are adequately resolved.

12. Comment: With reference to RAP Specific Issue No. 2, why didn't Niagara Mohawk establish responsibility and accountability for the maintenance of operator licenses 20 years ago?

Response: Establishing responsibility and accountability for the maintenance of a program is a fundamental principle of management that should have been implemented since the inception of the program. The reasons for NMPC's failure to implement these management principles in the past in this area is probably attributable to deficiencies in NMPC management in the Operations area, the extensive number of changes that have occurred in the operator training area since the TMI accident, and poor cooperation between the Operations and Training Departments. The RAP and CALs 88-13 and 88-17 were generated precisely because of questions like these by the NRC and to resolve these types of management deficiencies.

13. Comment: The spent fuel pool should be fixed prior to restart.

Response: The spent fuel pool has experienced minor leakage in recent months due to an apparent perforation in the stainless steel pool liner at a location yet to be identified. NMPC has proposed a plan of action to identify and resolve this problem subsequent to restart. Given the size of the leak which has been observed, as well as the design of the spent fuel pool, no threat to the public health and safety exists by delaying the repairs to the pool liner until after restart. Thus, the NRC disagrees with this comment and feels that the issue is properly addressed in the RAP (Specific Issue 15) as an issue which can be resolved after restart.

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14. Comment: - The radwaste spill should be cleaned up prior to restart.

Response: NMPC has in-place a plan for the decontamination and cleanup of the radwaste storage room spill at Unit 1. The plan involves the use of a robotic arm to remotely decontaminate the room. Given that the spill is confined to a small, abandoned area of the plant and that there is no indication that the radioactive contamination in the room is leaking to the environment, no threat to the public or worker health and safety exists. NMPC is scheduled to complete the decontamination of the room by March, 1990. Therefore, the NRC disagrees with this comment and does not consider the decontamination of the room a restart issue. The issue will be properly addressed in the NIP.

15. Comment: A determination should be made as to how much pressure the containment at Nine Mile Point Unit 1 can withstand.

Response: The Nine Mile Point 1 containment system consists of an upper section called the drywell and a lower portion called the suppression chamber. Per the Unit 1 Final Safety Analysis Report, the drywell is designed to withstand a peak 62 psig internal pressure. The suppression chamber is designed to withstand a peak 35 psig internal pressure. Prior to restart, the leak tightness and structural integrity of the containment will be tested during a containment integrated leak rate test. Any further analyses are not considered a restart issue.

16. Comment: Was NMP Unit 1 considered a safe plant by the NRC in December 1987 and why, all of the sudden, did the NRC ask Niagara Mohawk's management to come up the a plan to resolve their problems?

Response: Yes. Nine Mile Point was considered to be a plant which met the conditions of its license in December 1987. Had the NRC believed at anytime prior to December 1987 that the operation posed a threat to public health and safety, the Unit would have been immediately ordered to shutdown. Following the shutdown of the Unit in December 1987 due to technical problems, several other problems were identified in the areas of operator requalification training, control of commercial grade parts, fire barrier penetrations, and the operator's understanding and use of emergency operating procedures. As a result, on July 24, 1988, the NRC issued a Confirmatory Action Letter which documented Niagara Mohawk's commitment not to restart Unit 1 until corrective actions have been completed and the agreement of the NRC's Region I Regional Administrator was obtained. The actions required include a root cause assessment of why management has not been effective in recognizing and remedying problems, preparation of a restart action plan, and submission of a written report relative to readiness for restart.

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17. Comment: Why did the NRC raise a safety concern regarding the scram discharge volume on June 24, 1983, but take until December 1987 to take action to resolve the issue?

Response: During a routine shutdown of Browns Ferry Unit No. 3 on June 28, 1980, 76 of 185 control rods failed to fully insert in response to a manual scram from approximately 30% power. All rods were subsequently inserted within 15 minutes and no reactor damage or hazard to the public occurred. Following an in-depth review of Boiling Water Reactor Control Systems, short and long-term corrective measures were identified. Short-term corrective measures were implemented by IE Bulletin 80-17 and an Order concerning these measures was issued to Nine Mile Point 1 on January 9, 1981, and modified March 31, 1981. A Confirmatory Order, dated June 24, 1983, was issued to Niagara Mohawk concerning long-term corrective measures. Due to inspection priorities, the NRC staff did not inspect the scram discharge volume design for Nine Mile Point Unit 1 to determine compliance with the June 24, 1983 Order until November 1987. As a result of the inspection, two areas of deviation from the Order and the Generic Safety Evaluation, dated December 1, 1980, for the scram discharge volume were identified. These deviations had been identified by Niagara Mohawk in a January 30, 1981 letter, but NMPC failed to obtain prior NRC approval for the deviations as required by the Order.

The NRC feels this issue is properly addressed in the RAP. By letter dated October 12, 1988, the NRC staff transmitted its safety evaluation with respect to this issue and concluded that operation with the system for another fuel cycle poses no undue risk to the public. The staff has evaluated Niagara Mohawk's proposed testing program for the scram discharge volume and determined it to be acceptable.

18. Comment: Niagara Mohawk is not competent to operate atomic power plants based upon NRC findings/fines over the last six years.

Response: A purpose of the RAP and CAL 88-17 was to assure improvements in Niagara Mohawk's management of its nuclear facilities. While their performance in the last several years has raised NRC concerns, the NRC staff believes that Niagara Mohawk is capable of improving its operation and that a properly scoped management improvement plan that is effectively implemented is an appropriate means by which this can be accomplished. The NRC staff must conclude that the necessary improvements have been made prior to restart of Unit 1.



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19. Comment: Safety concerns regarding cracking in the core spray spargers.

Response: In accordance with IE Bulletin 80-13, Niagara Mohawk visually examined the Unit 1 core spray spargers and associated piping during the 1981 refueling outage. As documented in their May 13, 1981 letter to the NRC, two cracks in one location were identified. The cracks were evaluated and determined to be insignificant. No corrective actions were required. NMPC has continued to examine the sparger each refueling outage since 1981. The most recent examination, completed during the current outage, indicated that the crack length remains within the tolerance of the original crack length. Therefore, no corrective actions were required. The licensee will continue to inspect the core spray spargers and associated internal piping during future refueling outages. Thus, this issue does not impact restart or the RAP.

20. Comment: Will failed plant equipment be replaced with like-in-kind parts or by components that are not part of the original design and may be untested?

Response: All safety-related components which NMPC replaces due to failure or as part of a preventive maintenance program are purchased either as a safety-related component (fabricated and tested under an approved quality assurance program) or as a commercial grade product later subject to a quality assurance program designed to qualify the component for safety-related applications. Given the age of the facility and the declining number of suppliers of safety-related components in this country, NMPC may not necessarily replace failed components with identical replacements specified by the original design. Instead, alternative components may be used which are of different design, but have been demonstrated to be suitable for safety-related applications and are capable of performing the function of the original part. This practice is commonplace in the nuclear industry and, if properly administered, is acceptable to the NRC. Thus, this issue is not a problem and is inappropriate for conclusion in the RAP.

21. Comment: NMP Unit 1 should not be restarted because it will add to the radwaste problem. What will happen to the radwaste generated?

Response: The low level radioactive waste that is generated by Nine Mile Point Unit 1 will be shipped to one of the three currently licensed burial sites in the United States. However, it is the ultimate responsibility of New York State to find and develop an alternative disposal site in the near future under the provisions of the Low Level Waste Policy Amendments Act of 1985. All



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high level radioactive wastes will be stored onsite, either in the spent fuel pool or if later constructed, in a future onsite storage facility, until the federal government develops a high-level waste repository as required by the Nuclear Waste Policy Act of 1982.

At present, there is no prohibition against the operation of any nuclear power plant in this country due to questions regarding the ultimate resolution of the problem of disposing of high level or low level radioactive wastes. Therefore, the NRC disagrees that this issue should be included in the RAP and should be a basis for not restarting Unit 1.

22. Comment: The RAP does not require NMPC to conduct health studies to determine the long-term health effects of Nine Mile Point. These studies should be completed prior to restart of NMP Unit 1.

Response: As stipulated by the terms of its license, NMPC has been required to conduct environmental monitoring of the area around the plant site since prior to the licensing of Unit 1 to determine if there has been any accumulation of radioactive material in the environment or excessive radioactive emissions from the plant. There is no indication from the NMPC environmental monitoring program that any substantial potential danger to the public from normal plant emissions exists, particularly at levels that would suggest that a health study in the area is warranted. Based upon the results of the environmental monitoring program to date, the NRC does not consider this activity appropriate for the Restart Action Plan.

23. Comment: The permanent solution to the radwaste disposal problem should be included as an item in the RAP.

Response: The response to question 21 applies.

24. Comment: Cracks in the concrete walls in various parts of the plant should be fixed prior to restart. NMPC does not have a good handle on the wall cracking. Will the plant survive a seismic event due to all the building cracks?

Response: NMPC has observed cracks in the masonry walls of several buildings in the plant over time. The location of these cracks, as well as NMPC's plan of action to monitor and analyze the significance of these cracks, is documented under Specific Issue No. 15 of the RAP. The cause of the cracks in the walls appeared to be predominately due to either shrinkage during curing or tensile stress experienced due to temperature fluctuations



(concrete by nature has little structural strength in tension [its structural strength in tension is supplied by the reinforcing rods in the concrete] and thus has a tendency to crack in tension and during curing). NMPC has completed an extensive analysis and repair project on all masonry walls at Unit 1 to correct all of the cracks noted in the plant walls. These repairs ensured that the masonry walls meet their original seismic design criteria. Therefore, the NRC does not consider this issue a safety problem and resolution of the issue is properly addressed in the RAP.

25. Comment: What is the status of the SPDS system at NMP Unit 1?

Response: The Safety Parameter Display System was declared fully operational at Nine Mile Point Unit 1 in June 1986 and is therefore not a restart issue.

26. Comment: New York State should police NMP Unit 1 activities.

Response: By the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974 as amended, the United States Congress gave the NRC statutory authority over the regulation of nuclear facilities. As such it is the NRC's responsibility to: 1) license the construction and operation of nuclear reactors and other nuclear facilities, 2) license the possession, use, processing, handling and disposal of nuclear material, 3) develop and implement rules and regulations that govern licensed nuclear activities, inspect licensed facilities and activities, investigate nuclear incidents and allegations concerning any matter regulated by the NRC, 4) conduct public hearings on matters of nuclear and radiological safety, environmental concern, common defense and security and antitrust laws and, 5) develop effective working relationships with the states regarding regulation of nuclear material. Further, to ensure adequate communication and cooperation between the NRC and the states, the State Liaison Officer program was established in 1976. If New York State so desires, the NRC will consider state proposals to enter into instruments of cooperation for state participation in NRC inspection activities if the state's program has provisions to ensure close cooperation with the NRC.

In summary, New York State is welcome to enter into an agreement with the NRC to provide an oversight role, but the NRC has preemptive federal authority in the licensing of nuclear plants.



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27. Comment: The public has the perception that there isn't the slightest chance that the plant will stay closed.

Response: The Nine Mile Point Unit 1 facility was licensed under the terms of 10 CFR 50, which derives its statutory basis from the Atomic Energy Act of 1954, as amended. Since the facility remains licensed under Part 50, the emphasis of NMPC to date has been to correct the identified management deficiencies and to attempt to restore the plant to service. As a result, the NRC's actions to date have been oriented toward determining whether the facility can be safely returned to service and is based on NMPC having corrected the management and technical deficiencies identified. That is the purpose of our review of the Restart Action Plan. If NMPC can not correct the deficiencies noted, then the facility will remain closed.

28. Comment: Monthly public meetings should be held before restart to discuss the concerns of area citizens.

Response: The public meeting held on August 23, 1989, was an initiative on the part of the NRC to involve the public in the restart process at NMP Unit 1 and to gain their comments. Additional meetings of this type would result only if there are fundamental changes in the NMPC Restart Action Plan. The public is free to contact NRC directly to raise safety concerns.

29. Comment: Don't restart Unit 1.

Response: This comment was received from at least thirteen individuals during the public meeting. The response to question 27 applies.

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Public Comments on Issues Not Related to the RAP

30. Comment: Spent fuel pool storage/acceptability of dry cask storage.

Response: The NRC is proposing to amend its regulations to provide, as directed by the Nuclear Waste Policy Act of 1982, for the storage of spent fuel at the sites of power reactors, to the maximum extent practicable, without the need for additional site-specific approvals. Holders of power reactor operating licenses would be permitted to store spent fuel in casks approved by NRC under a general license. The proposed rule contains criteria for obtaining an NRC Certificate of Compliance for spent fuel storage casks. The notice of proposed rule making, published in the Federal Register on May 5, 1989, solicited public comments by June 19, 1989. The NRC is currently evaluating the public comments. In any event, this issue does not impact the restart of the facility.

31. Comment: The public doesn't trust Niagara Mohawk.

Response: This comment was made by four members of the public at the public meeting and represents an issue for NMPC to address. This issue is not applicable to restart.

32. Comment: The public doesn't trust the NRC

Response: This comment was made by three members of the public at the public meeting and is not related to the Restart Action Plan.

33. Comment: Why is Unit 2 allowed to operate with the same management as Unit 1?

Response: While NMP Unit 2 has been categorized by NRC as a plant requiring close NRC scrutiny, the staff and management of Unit 2, which is separate for each unit below the site superintendent level, have performed better than the staff and management at Unit 1. Most notably, the operators at Unit 2 have clearly displayed a much more positive and responsive attitude than Unit 1 operators. In addition, management has displayed the ability to operate Unit 2 effectively in spite of the fact that it is significantly more complex than Unit 1 and has a staff with significantly less operational experience with the facility than Unit 1. Thus, while Nine Mile Point Unit 2 remains under close NRC scrutiny, NRC senior management has determined that NMPC can safely operate Unit 2 in spite of the noted deficiencies at Unit 1.



34. Comment: Does the radwaste building spill represent a threat to the public? Why wasn't the NRC notified of the spill? Why didn't the NRC find this problem?

Response: The results of the NRC Augmented Inspection Team (AIT) conducted at Nine Mile Point indicate that the radwaste spill does not pose a threat to the public health and safety.

The NRC inspectors failed to identify the spill previously because the problem occurred in the sub-basement of an abandoned portion of the radwaste building and was confined to one room. The room was properly designated and marked as a locked high radiation area. The NRC inspection program does not require all locked high radiation areas in the plant to be examined internally by the NRC inspectors due to the unnecessary radiation exposure which would occur to the inspector. Thus, the fact that the NRC did not know of the existence of this radioactivity contaminated room was attributable largely to its location and the fact that Niagara Mohawk did not report the incident versus a failure to conduct a required portion of the NRC inspection program. No RAP actions as a result of this incident are necessary.

35. Comment: It is alleged that radiation process monitors are turned off when radioactive discharges to the environment are made by NMPC.

Response: This allegation has been entered into the NRC allegation tracking system for follow-up and will be resolved prior to restart.

36. Comment: Who is responsible for ensuring that Nine Mile Point and FitzPatrick have adequate emergency plans?

Response: It is the responsibility of the NRC to ensure that the licensees of Nine Mile Point and FitzPatrick have adequate emergency plans for the staff and employees onsite and the proper notification of authorities offsite. Verification of the adequacy of offsite emergency planning is the responsibility of the Federal Emergency Management Agency (FEMA) acting as an agent for the NRC. This delegation of responsibility was established by Presidential Directive.

37. Comment: The background radiation levels in an area near the plant are elevated above normal.

Response: The NRC maintains an independent radiation monitoring program in the area around the plant. The results of this radiation monitoring program are published quarterly in NUREG - 0837. Review of the results of that monitoring program do not indicate that there are elevated background radiation levels in any area around the plant.

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38. Comment: Does the NRC fee schedule pose a potential conflict of interest?

Response: The annual funding of the NRC is established and provided by Congress. The funds received through the fee schedule are deposited directly to the Federal Treasury. While the NRC fee schedule does recover a significant portion of its operating costs, the schedule is not related to the NRC's budget and does not present a conflict with the agency's role as a regulator of the utility.

39. Comment: Allowing radioactive waste to be categorized as being below a level of regulatory concern, and thus capable of being disposed of as normal trash, constitutes a public health and safety concern.

Response: The NRC was mandated by the Low Level Radioactive Waste Policy Amendments Act of 1985 to establish a regulatory limit for radioactive waste which does not pose a threat to the public health and safety and thus can be disposed of by normal methods. The NRC has yet to establish such a regulatory limit. When that radioactivity level is decided upon, it will be the subject of extensive review and rulemaking to determine that the limit does not pose a threat to the public health and safety.

40. Comments: What has been done regarding the concerns raised by Douglas Ellison? Why did the NRC pay Mr. Ellison \$11,000 for information regarding Niagara Mohawk?

Response: The allegations initially raised by Douglas Ellison were reviewed by a special NRC team in inspection 50-220/86-17. As a result of new allegations, two additional inspections were recently conducted at Nine Mile Point to resolve the concerns raised. The results of those two inspections, one regarding the technical issues and one regarding allegations of potential employee harassment and intimidation, are documented in Inspection Reports 50-220/89-16 and 89-21, respectively. While some of the concerns were partially substantiated by the inspection team, no issues which affect the public health and safety were identified.

The matter of Mr. Ellison being paid by the NRC to provide information regarding Niagara Mohawk is the subject of an on-going investigation and thus can not be discussed in detail at this time. Completion of this investigation does not impact the Restart Action Plan or restart of the facility.

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41. Comment: Allegation concerning an unknown NRC employee/individual impersonating an NRC employee.

Response: The NRC can not take any further actions with regard to the individual described due to the lack of information provided. Although the individual stated that he was an NRC employee, it is not clear that the individual was in fact employed by the NRC. However, from the description of the actions of the individual from the person making this statement, the individual's actions would have been totally unacceptable behavior for an NRC employee.

42. Comment: I'm opposed to the operation of any nuclear power plant in this country.

Response: Congress has decreed through the Atomic Energy Act of 1954 that atomic energy is beneficial to this country relative to the inherent risks that the energy source poses. Thus, existing atomic power plants are permitted to operate in this country, and new power stations may be constructed and licensed to operate. It is the NRC's responsibility to ensure that the risks from this energy source are minimized.

43. Comment: (Received in Writing) - The audience at the public meeting was not representative of the public and is biased against the plant.

Response: The purpose of the public meeting was to receive comments on the RAP, both positive and negative. The meeting was not intended to provide a forum to determine the level of public support for or against the restart of Unit 1.

44. Comment: (Received in writing) - Do oil and coal-fired power plants that spew out the makings of acid rain have to hold hearings before they start-up?

Response: The NRC is not responsible for the regulation of power plants other than those powered by nuclear energy. Those facilities are subject to regulation by other governmental agencies (i.e., Environmental Protection Agency, Occupational Safety and Health Administration, etc.) and may be subject to licensing actions, up to and including a public hearing, in the event that they do not comply with the agencies' regulations or if requested by another party in accordance with the procedural rules of the agency.

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45. Comment: (Received in writing) - I have heard that there is a "collar" around the reactor at Nine Mile Point One that is so corroded that if the plant was turned on full power, it would blow up.

Response: After discussions between several members of the NRC staff to determine what the individual could have meant by the "collar" around the plant, it was determined that the person must have been referring to the torus. The written response provided to the individual stated that neither the torus nor the reactor can "blow up" regardless of the operating status of the plant. The NRC assured the individual that NMPC is taking actions to resolve the torus corrosion problem and that the NRC will closely follow their actions to determine that the problem does not pose a threat to public health and safety. Further, the individual was informed that Niagara Mohawk will be conducting a pressurization test of the torus prior to restart of the facility to ensure that it will withstand the maximum postulated pressure generated during a design basis reactor accident. Based upon these facts, the NRC feels that the individual's concerns are unsubstantiated.

46. Comment: (Received in writing) - What was the source(s) of the elevated cesium and strontium concentrations noted in local milk supplies during the late 1970's?

Response: The NRC conducted a review of the elevated Cs-137 and I-131 levels noted in milk samples in the area near the plant in 1981. The review was conducted in response to concerns regarding this issue which were raised by the Sierra Club. The results of this review indicated that the average levels of Cs-137 in milk near the site were not consistently higher than the rest of the State. The NRC's assessment at that time was that the source Cs-137 and I-131 concentrations in milk in the area could not be precisely determined. The source of the contamination could have been attributable to either reactor effluents or fallout from weapons tests, most particularly the Chinese atmospheric weapons tests in the late 1970's. Regardless of the source, the observed radiation levels constituted only a small fraction of the radiation dose received from natural background radiation. That small dose would also have been below regulatory limits even if the assumption was made that all the observed radioactivity came from effluents from Nine Mile Point and FitzPatrick.

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47. Comment: (Received in writing) - Why is there a higher incidence of learning disabilities in area children born during the late 1970's?

Response: The NRC has no knowledge of any studies which show that the incidence of learning disabilities in area children is higher than normal at any time in history. Based on research studies into the effect of radiation on the incidence of mental retardation in children, no measurable effect on the incidence of learning disabilities in area children should be observable until radiation doses to the public from the operation nuclear facilities were at least three orders of magnitude above NRC limits.

48. Comment: (Received in writing) - A detailed study of the Lake Ontario bottom sediments or area wetlands should be conducted by NMPC to determine if sediments and biota were affected by the radwaste room flooding event.

Response: As mentioned in the response to earlier comments, NMPC is required to conduct an environmental sampling program as a requirement of their license. That sampling program involves collecting samples of sediments, biota, and fish from Lake Ontario as well as the surrounding land area. The results of the sampling program confirm that NMPC is operating the facility in accordance with the NRC's radioactive waste release limits as codified in 10 CFR 20.

49. Comment: (Unrelated to Nine Mile Point Unit 1 Restart) - Don't site a low level waste repository in the area.

Response: The siting of a low level waste repository is currently the responsibility of the State of New York.

