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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

August 10, 1979

Docket No. 50-333

Mr. George T. Berry  
General Manager and Chief  
Engineer  
Power Authority of the State  
of New York  
10 Columbus Circle  
New York, N. Y. 10019

Dear Mr. Berry:

By letter dated July 27, 1979 you requested a modification to the cold shutdown definition necessitated by your desire to perform surveillance tests at the James A. FitzPatrick (JAF) Nuclear Power Plant. JAF has been in the cold shutdown condition as required by the Show Cause Order of March 13, 1979, and as defined by our letter of June 12, 1979.

By our letter of June 12, 1979 the cold shutdown condition, specified in the Order, was defined as: (1) the Reactor Mode Selector Switch in the Shutdown Mode position, and (2) the reactor coolant temperature  $\leq 212^{\circ}\text{F}$ . Your request to perform surveillance tests will require that the Mode Selector Switch be placed in the Startup/Hot Standby Mode in two instances, and in the Refueling Mode in the third instance.

By this letter you are authorized only to perform the control rod drive tests which require the refuel position of the mode selector switch. The objective of the Order was to assure that the plant remains in the cold shutdown condition. This objective is satisfied for the mode selector switch in either the Shutdown or Refueling position. Therefore, placing the mode selector switch in the Refueling position is in conformance with the Order.

With respect to your request for other tests, these are not being allowed since a modification of the March 13, 1979 Show Cause Order would be required.

Please be advised that all activities conducted during the time that the Show Cause Order is effective should be reviewed in accordance with Technical Specification Section 6.5, "Review and Audit." The Plant Operating Review Committee should determine that the aforementioned testing, considering the deficiencies identified in the Order, does not involve an unreviewed safety question pursuant to 10 CFR 0.59.

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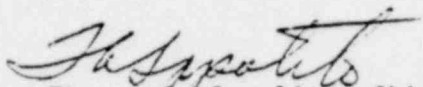
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Mr. George T. Berry

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Should you have any questions, please advise.

Sincerely,



Thomas A. Ippolito, Chief  
Operating Reactors Branch #3  
Division of Operating Reactors

cc: See next page

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Mr. George T. Berry  
Power Authority of the State  
of New York

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cc:

Mr. Vito J. Cassan  
Assistant General Counsel  
Power Authority of the State  
of New York  
10 Columbus Circle  
New York, New York 10019

Mr. Peter W. Lyon  
Manager - Nuclear Operations  
Power Authority of the State  
of New York  
10 Columbus Circle  
New York, New York 10019

Mr. J. D. Leonard, Jr.  
Resident Manager  
James A. FitzPatrick Nuclear  
Power Plant  
P. O. Box 41  
Lycoming, New York 13093

Director, Technical Development  
Programs  
State of New York Energy Office  
Agency Building 2  
Empire State Plaza  
Albany, New York 12223

Oswego County Office Building  
46 E. Bridge Street  
Oswego, New York 13126

George M. Wilverding, Licensing Supervisor  
Power Authority of the State of New York  
10 Columbus Circle  
New York, New York 10019

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