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

JAN 9 1981

Docket No. 50-220
EA 81-08

Niagara Mohawk Power Corporation
ATTN: Mr. William J. Donlon
President
300 Erie Boulevard West
Syracuse, New York 13202

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Dear Mr. Donlon:

Your December 19, 1980 response to our November 26, 1980 Notice of Violation and Notice of Proposed Imposition of Civil Penalties; the December 29, 1980 Motion to Dismiss Proceeding with Respect to Allegation B of Notice of Violation, filed by your attorney on behalf of Niagara Mohawk Power Corporation; and your January 3, 1981 Response to Show Cause Order are being evaluated. To complete our evaluations we require the following information:

1. What specific actions were taken on or before December 31, 1979 to implement NUREG 0578 as clarified on pages 31-34 and 37 of the enclosure to the October 30, 1979 NRC letter? We are particularly interested in the description of the systems/method and procedures for conducting all aspects of the measurement/analysis referred to at pages 33 and 34 of the enclosure to the October 30, 1979 letter.
2. What was meant by the use of the phrases "document our compliance with NUREG 0578" and "attached are the design details and the status of the outstanding commitments" as those phrases were used in the December 31, 1979 letter? In addition, was it your intention that the NRC rely on that letter? If not, what was the purpose of the commitments in that letter?
3. Provide copies of procedures in effect on December 31, 1979 and indicate dates first adopted, to assure that employees would, if existing in-line instrumentation went off scale:
 - (a) place the portable monitor in the preselected location; and
 - (b) provide radiation readings to the control room every 15 minutes during an accident.
4. Provide copies of procedures in effect on December 31, 1979, and indicate dates first adopted, to assure that at least one high range survey monitor capable of providing continuous readout for seven consecutive days would be in the emergency in-plant survey kit and available to be used in the case of an accident for the purpose of measuring radiation from the exhaust air.

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5. What measurements are required to be performed with the high range survey monitors in the emergency in-plant survey kit? (i.e., what are the "other required high range surveys"? under what conditions are they performed? at which locations would they be performed? and at what frequency would they be performed?)
6. Provide the analysis you performed showing that there is no significant difference in amount or efficiency of shielding between the cave as proposed on December 31, 1979 and the lead brick which was in place prior to October 10, 1980. How would this analysis change if it accounted for background radiation, other than from "adjoining sample lines," that might be present at various times under postulated accident conditions. In addition, provide your analysis of dose rates at various times in the vicinity of the monitor under postulated accident conditions.
7. Investigation Report 50-220/80-17 contains the following sworn statements:
 - (a) James Bartlett stated: "With regard to the response to the order, I am familiar with the general process of preparing such documents, however I did not participate in preparation of the specific data, nor was I personally aware of the basis for formulating the implementation schedule...

"In a general sense I was kept aware of the general status of these items through verbal contact with our engineering branch and site management."
 - (b) Donald P. Dise stated (regarding the December 31, 1979 letter): "At the time I signed this document, I was of the understanding that all the items were completed as stated. I was not personally aware of the specific details as to how the items were actually completed but relied on the management chain below me who confirmed that all the items, including 2.1.8.B were complete."
 - (c) Thomas E. Lempges stated: "With regard to the basis of the response for the answer to show cause I would state that the answer to show cause was based primarily on the December 31, 1979 submittal...I do not personally know on what basis Francisco drafted this letter." (emphasis added)
 - (d) Thomas J. Perkins stated: "The majority of the response letter was based on the submittal of December 31, 1979. This letter of December 31, 1979 was prepared in the same manner as the response to show cause letter only in more detail." (emphasis added)

Mr. Perkins further stated: "In my first statement I stated that I was aware that the lead cave was not completed at the time of the December 31, 1979 letter and the January 22, 1980 letter. However, since I placed no significance to the cave I did not feel it necessary to relay the fact that the cave was not completed to anyone else up the management chain."

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- (e) Peter E. Francisco stated: "Following receipt of the show cause order, I was instructed to prepare the response to the show cause order. The affidavit was prepared with the assistance of an attorney. Exhibit A to the affidavit was prepared by myself. The mechanics of the chart were based primarily on the NRC recommendation in the October 30 letter. The basis I used was based on a review of the December 31, 1979 status and verbal contact with various site supervisors and particularly Mel Silliman and Ed Leach." (emphasis added)
- (f) Edward W. Leach stated: "When the December 31, 1979 letter was prepared by Peter Francisco at Corporate Headquarters he relied on verbal contact and discussions with me to formulate the 2.1.8.B portion of the letter and what we had done. In the process of preparing the letter, I received a draft copy through the company mail for comment. I made some changes to the draft and telecopied it to Francisco on 12-27-79. There was no further substantial change to this area of the status report and it went out in its final form. To the best of my knowledge this was the only formal reference material used for input into the show cause order response." (emphasis added)

In light of these statements was Investigation Report 50-220/80-17 reviewed by you or your staff prior to preparation of your December 19, 1980 response? If it was reviewed, identify the basis on which you reconcile the apparent inconsistency between the sworn statements and the statement in your December 19, 1980 response that the January 22, 1980 response did not "...refer to or rely upon, implicitly or explicitly, the statements in NM's December 31, 1979 status letter."

In view of the significance of this action and the desirability of a prompt resolution, it is important that you provide your supplemental response, under oath or affirmation, by not later than January 23, 1981.

Your previous responses and your reply to this letter will be considered in determining whether further enforcement action is warranted. In this regard, we are particularly concerned about the apparent inconsistencies addressed in item 7. above.

Sincerely,

Original Signed by
V. Stello

Victor Stello, Jr., Director
Office of Inspection and Enforcement

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