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

October 24, 1978

Rochester Gas and Electric Corporation
ATTN: Mr. Paul W. Briggs
President
89 East Avenue
Rochester, New York 14649

Docket No. 50-244

Gentlemen:

This refers to your letters of May 23, and July 28, 1978, in response to our letters of May 1, and July 19, 1978, informing us of the corrective and preventive actions planned and implemented in response to the items of noncompliance identified in our Notice of Violation dated May 1, 1978. These actions will be examined during subsequent inspections.

In your response, you make the statement that "...none of the items of non-conformance alleges an actual overexposure to any person." You should note as set forth in item I of the Notice of Violation, that the regulatory limits of 10 CFR 20.101 were exceeded for at least ten individuals.

We have reviewed your letters and attachments with particular attention to the points raised in support of your protest of the imposition of civil penalties for items V and IX.A of the Notice of Violation enclosed with our May 1 letter. We have also considered your request for general mitigation of the civil penalties assessed for the remaining items.

With regard to item V, we agree in retrospect that since the clarification of the applicability of the regulation contained in IE Circular 78-03 was not issued until more than a year after this matter occurred, the civil penalty should not be imposed. Therefore, the proposed civil penalty of \$3,000 is remitted.

Concerning item IX.A which dealt with failure to follow radiation protection procedures, your response stated that it was the intent of procedure HP 6.2 to require protective measures to be taken when the major portion of the surface area of a room had a contamination level above the limits specified. We have re-examined your procedure and find no basis to conclude that the requirements of HP 6.2 were to be followed only when a major portion of the surface area was affected.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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We acknowledge that the new information you presented indicated that the Waste Hold-up Tank Room, one of four examples cited in item IX.A, had been decontaminated prior to observation by our inspector. We note that all measures required by procedure HP 6.2 except posting were implemented for the other three areas cited in item IX.A. In addition, you indicated that these areas were locked. Consequently, it does not appear that the situation presented a significant hazard to the health and safety of the workers.

Concerning item IX.B, we understand that delivery of a copy of the appropriate Special Work Permit prior to job initiation assured that Control Room personnel were aware that work was being performed in the Waste Evaporator Room. Based on this information, it appears that significant hazards to the health and safety of the workers did not develop.

In light of these considerations we have recategorized item IX as a deficiency and have remitted the civil penalty of \$4,000.

We conclude that general mitigation of the proposed civil penalties for the remaining items is not appropriate for the following reasons:

1. Although, as stated in our May 1 letter, the items of noncompliance did not directly jeopardize the health and safety of the public, our letter indicated that consideration of civil penalties was prompted by the apparent lack of effective radiation safety controls which could lead to more serious situations and by our concern about the lack of effectiveness of actions taken by you to correct noncompliance brought to your attention in previous Notices of Violation.
2. An evaluation of civil penalties for similar items of noncompliance indicates that the amount proposed for each item of noncompliance was generally consistent with those imposed on others. Variations in civil penalty amounts were related to the frequency of recurrence. The total amount of civil penalties in this case was greater due to the nature and number of the items of noncompliance.
3. Appendix C to our May 1 letter appropriately presents the repetitive nature of previously cited items of noncompliance. Items listed in our Notices of Violation refer to basic regulatory requirements such as sections of the regulations or Technical Specifications. The items summarized in our Appendix C refer to repeated instances of failure to comply with the same basic regulatory requirements (e.g., failure to follow Health Physics Procedures in accordance with Technical Specifications, rather than the more

Rochester Gas and Electric
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- 3 -

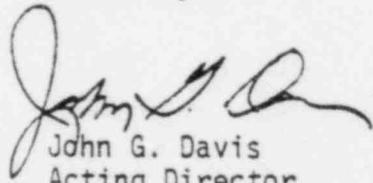
October 24, 1978

specific failure to follow an individual procedure). Matters noted in your Attachment C regarding failure to lock high radiation areas and failure to perform beta surveys were previously acknowledged by you as noncompliance.

We believe that actions you described in the management meeting of March 3, 1978, if vigorously implemented, will improve your program.

The net result in considering mitigation of the Proposed Civil Penalties is a reduction of the cumulative amount from Thirty-One Thousand Dollars (\$31,000) to Twenty-Four Thousand Dollars (\$24,000). Accordingly, we hereby serve the enclosed Order on Rochester Gas and Electric Corporation, imposing civil penalties in the cumulative amount of Twenty-Four Thousand Dollars (\$24,000).

Sincerely,



John G. Davis
Acting Director
Office of Inspection
and Enforcement

Enclosure:
Order Imposing Civil
Monetary Penalties