

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

| | | |
|--|---|------------------------|
| In the Matter of |) | Docket No. 50-244 |
| |) | (Provisional Operating |
| Rochester Gas and Electric Corporation |) | License No. DPR-18) |
| 89 East Avenue |) | |
| Rochester, New York 14649 |) | |

ORDER IMPOSING CIVIL MONETARY PENALTIES

I

Rochester Gas and Electric Corporation, 89 East Avenue, Rochester, New York (the "licensee") is the holder of Provisional Operating License No. DPR-18 (the "license"), which authorizes the licensee to operate the R. E. Ginna Nuclear Power Plant in Wayne County, New York, under certain conditions specified therein. The license was issued on March 1, 1972, and continues in force under a timely application for a full term operating license.

II

An inspection of the licensee's activities under the license was conducted on January 30 - February 3, and February 13-17, 1978. As a result of the inspection, it appears that the licensee has not conducted its activities in full compliance with the conditions of the license and with the requirements of the Nuclear Regulatory Commission's Standards for Protection Against Radiation," Part 20, Title 10, Code of Federal Regulations. A written Notice of Violation was served upon the licensee

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by letter dated May 1, 1978, appended hereto as Appendix I, specifying the items of noncompliance in accordance with 10 CFR 2.201. A Notice of Proposed Imposition of Civil Penalties dated May 1, 1978, was served concurrently upon the licensee in accordance with Section 234 of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2282), and 10 CFR 2.205, incorporating by reference the Notice of Violation, which stated the nature of the items of noncompliance and the provisions of NRC regulations and license conditions with which the licensee was in noncompliance.

A letter, dated May 23, 1978, in response to the Notice of Violation and Notice of Proposed Imposition of Civil Penalties was received from the licensee and is appended hereto as Appendix II.

III

Upon consideration of the answer received and the statements of fact, explanation and argument in denial or mitigation contained therein, the Acting Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the items of noncompliance designated in the Notice of Violation as Items I, II, III, IV, VI, VII, VIII and X should be imposed. The proposed penalty for Item V of Three Thousand Dollars (\$3,000) and the proposed penalty for Item IX of Four Thousand Dollars (\$4,000) have been remitted.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2282), and 10 CFR 2.205, IT IS HEREBY ORDERED THAT:

The licensee pay civil penalties in the total amount of Twenty-Four Thousand Dollars (\$24,000) within twenty (20) days of the date of receipt of this Order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Acting Director of the Office of Inspection and Enforcement.

V

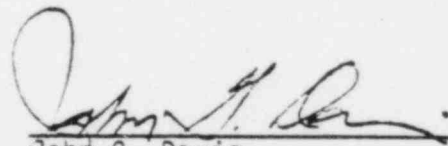
The licensee may, within twenty (20) days of the receipt of this Order request a hearing. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within twenty (20) days of the date of receipt of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee request a hearing as provided above, the issues to be considered at such hearing shall be:

- (a) whether the licensee was in noncompliance with the Commission's regulations and the conditions of the license in the respects set forth as Items I, II, III, IV, VI, VII, VIII and X in the Notice of Violation referenced in Section II above; and
- (b) whether, on the basis of such items of noncompliance, the order should be sustained.

FOR THE NUCLEAR REGULATORY COMMISSION



John G. Davis
Acting Director
Office of Inspection
and Enforcement

Dated at Bethesda, Maryland
this 20 day of October 1978



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

MAY 1 1978

Rochester Gas and Electric Corporation
ATTN: Mr. Paul W. Briggs
President
89 East Avenue
Rochester, New York 14604

Docket No. 50-244

Gentlemen:

The findings of a recent inspection of the radiation protection program at the R. E. Ginna Nuclear Power Plant indicate repeated noncompliance with the same basic requirements which have been brought to your attention in notices of violation issued since July 1, 1976. Consequently, we met with representatives of Rochester Gas and Electric Corporation on March 3, 1978, to review our concerns regarding the radiation safety program. At that meeting we also discussed the ten apparent items of noncompliance found during the recent inspection. These noncompliances are set forth in the Notice of Violation, Appendix A of this letter.

In our view the items of noncompliance in Appendix A demonstrate a lack of effective radiation safety controls. The chronic and repetitive nature of the noncompliance raises serious concerns about the effectiveness of the actions taken by Rochester Gas and Electric Corporation to correct noncompliances brought to its attention in previous notices of violations. Consequently, we propose to impose civil penalties in the cumulative amount of Thirty One Thousand Dollars (\$31,000) for these noncompliances. Appendix B of this letter is the Notice of Proposed Imposition of Civil Penalties. You are required to respond to this letter, and in preparing your response you should follow the instruction in Appendix A.

Appendix C reviews the past 3-year history of noncompliance associated with the radiation protection activities at this plant. The following discussion summarizes the repetitive nature of the noncompliance and expresses our concerns and intended future actions.

Of the ten items of noncompliance in Appendix A, six have been listed in previous notices of violation. One of these items, failure to follow radiation protection procedures, has been cited on four previous occasions. Another item, failure to comply with high radiation area control requirements, has been noted on three previous occasions.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

APPENDIX A

MAY 1 1979

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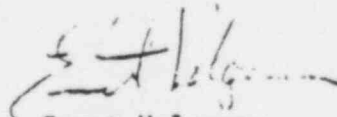
During the past three years, a total of sixty-eight items of noncompliance were identified. These included one violation, forty-four infractions and twenty-three deficiencies. Civil penalties of \$10,000 were imposed in August 1975 because of your failure to implement an effective radiation safety program to control exposures to contract personnel. Seventeen of the sixty-eight items in the past three years were associated with the radiation protection program--these seventeen do not include the ten items described in Appendix A.

While in the past no single one of these events has directly jeopardized public health and safety, we are concerned that existing apparently inadequate controls, which have resulted in the numerous and repetitive items of noncompliance, may lead to more serious situations. Therefore, in your reply to this letter give particular attention to describing those actions you have taken or plan to take to improve your control of the radiation safety program and to prevent further noncompliance. We are particularly interested in planned improvements to better control activities in high radiation areas and to improve communication and supervision among the operating, maintenance, and health physics organizations performing and controlling such activities.

We are concerned with the numerous items of noncompliance in the radiation protection activities that occurred over the past three years; the number and repetitive nature of some of them show, in our view, inadequate attention by your management to proper and effective controls in the radiation protection program. We intend to augment the NRC inspection effort at the R. E. Ginna Nuclear Power Plant to make a comprehensive evaluation of your corrective actions.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter and the enclosures will be placed in the NRC's Public Document Room.

Sincerely,



Ernst Volgenau
Director
Office of Inspection and
Enforcement

Enclosures: (See next page)

APPENDIX I

MAY 1 1978

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Enclosures:

1. Appendix A, Notice of Violation
2. Appendix B, Notice of Proposed Imposition of Civil Penalties
3. Appendix C, Enforcement History

APPENDIX I

MAY 1 1978

APPENDIX A

NOTICE OF VIOLATION

Rochester Gas and Electric Corporation

Docket No. 50-244

This refers to the inspection conducted by representatives of the Region I (Philadelphia) office at the R. E. Ginna Nuclear Power Plant, Ontario, New York, of activities authorized by NRC License No. DPR-18.

During this inspection conducted on January 30 - February 3, and February 13-17, 1978, the following apparent items of noncompliance were identified.

- I. 10 CFR 20.101, "Exposure of individuals to radiation in restricted areas," requires in section (a) that the dose to the whole body of an individual in a restricted area be limited to one and one-quarter rems per calendar quarter, except as provided in paragraph (b) of that section. Paragraph (b) allows a dose to the whole body of 3 rems per calendar quarter provided certain specified conditions are met. One of these conditions is that the individual's accumulated occupational dose to the whole body be determined on Form NRC-4, or on a clear and legible record containing all the information required by that form.

Contrary to the above, at least ten individuals received a dose to the whole body in excess of 1.25 rems but less than 3 rems during the second quarter of 1977, and the individuals' accumulated occupational doses to the whole body had not been determined in the manner prescribed.

This is an infraction (Civil Penalty \$4,000).

- II. 10 CFR 20.201, "Surveys," requires that each licensee make or cause to be made such surveys as may be necessary for him to comply with the regulations of 10 CFR 20. As defined in 10 CFR 20.201 section (a) "survey" means an evaluation of the radiation hazards incident to the production, use, release, disposal, or presence of radioactive materials or other sources of radiation under a specific set of conditions.

Contrary to the above, no evaluation was made of radiation doses received during the one month period for which five individuals lost their film badges during the second quarter of 1977. This evaluation was necessary for compliance with 10 CFR 20.101, 10 CFR 20.408, and 10 CFR 20.409.

This is an infraction (Civil Penalty \$3,500).

- III. 10 CFR 20.203, "Caution signs, labels, signals, and controls," requires in (b) that each radiation area be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words "Caution, Radiation Area." 10 CFR 20.202 section (b)(2) defines a "Radiation Area" as any area, accessible to personnel, in which there exists radiation, originating in whole or in part within licensed material, at such levels that a major portion of the body could receive in any one hour a dose in excess of 5 millirem.

Contrary to the above, on January 31, 1978, an area outside the perimeter fence of the Upper Radwaste Storage Area, where radiation levels of 6 mrem/hr existed for more than one hour, was not posted as required.

This is an infraction (Civil Penalty \$3,500).

- IV. 10 CFR 20.408, "Reports of personnel exposure on termination of employment or work," requires that when an individual assigned to work at the licensee's facility terminates his work assignment, the licensee furnish a report of the individual's exposure to radiation and radioactive materials to the Director of Inspection and Enforcement within 30 days after the exposure has been determined or 90 days after the date of termination of work, whichever is earlier.

Contrary to the above, as of February 2, 1978, reports of exposure to radiation and radioactive material for two individuals, who terminated their work assignments in October 1977, were not furnished to the Director of Inspection and Enforcement.

This is a deficiency (Civil Penalty \$1,500).

- V. 10 CFR 71.3, "Requirement for license," requires that no licensee subject to the regulations in this part shall (a) deliver any licensed materials to a carrier for transport or (b) transport licensed material except as authorized in a general license or specific license issued by the Commission, or as exempted in this part.

Contrary to the above, on April 13, 1977, the licensee delivered 460 Ci of licensed material to a carrier for transport without authorization in a general or a specific license and no exemption in 10 CFR 71 was applicable.

This is an infraction (Civil Penalty \$3,000).

- VI. 10 CFR 20.401, "Records of surveys, radiation monitoring, and disposal," requires in section (a) that each licensee maintain records showing the radiation exposures of all individuals for whom personnel monitoring is required, under 10 CFR 20.202 on Form NRC-5, in accordance with the instructions contained on that form or on a clear and legible record containing all the information required by Form NRC-5.

Contrary to the above, as of February 17, 1978, exposure records for individuals required to be monitored were not maintained on Form NRC-5 nor on a clear and legible record containing all the information required by Form NRC-5. Specifically, the Ginna, "Visitor's Film Badge Record," Form 48-58, used to record exposures of non-station personnel did not contain information called for in items 5, 6, 7, 9, 10, 11, and 13 thru 18 of Form NRC-5, and the Ginna, "Current Occupational Radiation Exposure," Form 49-27, used to record exposures of station personnel, did not contain information called for in items 7 and 13 of Form NRC-5.

This is a deficiency (Civil Penalty \$1,000).

- VII. Technical Specification 6.13, "High Radiation Area," requires in section 1.a that each High Radiation Area in which the intensity of radiation is 1000 mrem/hr or less be barricaded and conspicuously posted as a High Radiation Area.

Contrary to the above, on January 30, 1978, the Pressurizer Cubicle and an area in the basement adjacent to the Pressurizer Spray Tank had radiation intensities of 175 and 250 mrem/hr respectively and were not barricaded or posted as High Radiation Areas.

This is an infraction (Civil Penalty \$4,000).

- VIII. Technical Specification 6.13, "High Radiation Area," requires in section 1.b that each High Radiation Area in which the intensity of radiation is greater than 1000 mrem/hr shall be provided with locked doors to prevent unauthorized entry.

Contrary to the above, on January 30, 1978, an area in the basement containment near the Regenerative Heat Exchanger had radiation intensities as high as 1500 mrem/hr and did not have locked doors to prevent unauthorized entry.

This is an infraction (Civil Penalty \$3,500).

IX. Technical Specification 6.11, "Radiation Protection Program," requires that radiation control procedures shall be prepared and made available to all station personnel and other persons who may be subject to radiation exposure at the station and the program shall be adhered to for all operations involving personnel radiation exposure.

A. Procedure HP-6.2, Revision 0, dated October 5, 1976, "Posting of Contaminated and Airborne Areas," requires, in step VI 1., that areas with smearable contamination greater than 10,000 dpm/100cm² shall be barricaded and posted as contaminated areas, and requires in step VI 2. that areas with surface contamination greater than 100,000 dpm/100cm² shall be barricaded and posted with a "Caution, Airborne Radioactivity" sign.

Contrary to the above, on February 2, 1978, the Non-Regenerative Heat Exchanger Cubicle and the Radwaste Storage Tank Cubicle had smearable contamination levels of 12,000 and 86,000 dpm/100cm² respectively, and were not posted as contaminated areas, and the Waste Evaporator Room and Waste Holdup Tank Room had surface contamination levels of 112,000 and 132,000 dpm/100cm² respectively and were not posted with a "Caution, Airborne Radioactivity" sign.

B. Procedure A-1.1, Revision 3, dated March 28, 1977, "Locked Radiation Areas," requires, in section 3.4, that when entry to a locked high radiation area is necessary, the Shift Foreman will authorize the issuance of the appropriate key and that all items on the Key Log be completed.

Contrary to the above, on February 2, 1978, a key to the Waste Evaporator Room, a locked high radiation area, was issued to allow entry of four individuals to work under Special Work Permit 143, and no items on the Key Log were completed.

This is an infraction (Civil Penalty \$4,000).

- X. Technical Specification 6.4, "Training," requires that a retraining and replacement training program for the facility staff shall be maintained under the direction of the Training Coordinator and shall meet or exceed the requirements and recommendations of Section 5.5 of ANSI N18.1-1971. Procedures A-50.9 and A-50.9.2, developed pursuant to this technical specification, establish the details of the retraining and replacement training program for the Non-Licensed staff, and lists ten lecture topics which are specified to be presented at least once during the two year cycle.

Contrary to the above, the retraining and replacement training program for members of the Health Physics Staff was not maintained for the two year cycle beginning March 1976. Of the ten lecture topics to be presented at least every two years, one was presented in March 1976. None of the other lectures have been presented as of March 17, 1978.

This is an infraction (Civil Penalty \$3,000).

This notice of violation is sent to Rochester Gas and Electric Corporation pursuant to the provisions of Section 2.201 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations. Rochester Gas and Electric Corporation is hereby required to submit to this office within twenty (20) days of the receipt of this notice, a written statement or explanation in reply, including for each item of noncompliance, (1) admission or denial of the alleged items of noncompliance; (2) the reasons for the items of noncompliance if admitted; (3) the corrective steps which have been taken and the results achieved; (4) corrective steps which will be taken to avoid further items of noncompliance; and (5) the date when full compliance will be achieved.

APPENDIX BNOTICE OF PROPOSED IMPOSITION OF CIVIL PENALTIES

Rochester Gas and Electric Corporation

Docket No. 50-244

This office has considered the enforcement options available to the NRC including administrative actions in the form of written notices of violation, civil monetary penalties, and orders pertaining to the modification, suspension or revocation of a license. Based on these considerations we propose to impose civil penalties pursuant to Section 234 of the Atomic Energy Act of 1954, as amended, (42 USC 2282), and to 10 CFR 2.205 in the cumulative amount of Thirty One Thousand Dollars (\$31,000), for the specific items of noncompliance set forth in Appendix A to the cover letter. In proposing to impose civil penalties pursuant to this section of the Act and in fixing the proposed amount of the penalties, the factors identified in the Statements of Consideration published in the Federal Register with the rule making action which adopted 10 CFR 2.205 (36 FR 16894) August 26, 1971, and the "Criteria for Determining Enforcement Action," which was sent to NRC licensees on December 31, 1974, have been taken into account.

Rochester Gas and Electric Corporation may, within twenty (20) days of receipt of this notice pay the civil penalties in the cumulative amount of Thirty One Thousand Dollars (\$31,000), or may protest the imposition of the civil penalties in whole or in part by a written answer. Should Rochester Gas and Electric Corporation fail to answer within the time specified, this office will issue an order imposing the civil penalties in the amount proposed above. Should Rochester Gas and Electric Corporation elect to file an answer protesting the civil penalties, such an answer may (a) deny the items of noncompliance listed in the Notice of Violation in whole or in part, (b) demonstrate extenuating circumstances, (c) show error in the Notice of Violation, (d) show other reasons why the penalties should not be imposed. In addition to protesting the civil penalties in whole or in part, such answer may request remission or mitigation of the penalties. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 2.201, but may incorporate by specific reference (e.g., giving page and paragraph numbers) to avoid repetition.

Rochester Gas and Electric Corporation's attention is directed to the other provisions of 10 CFR 2.205 regarding, in particular, failure to answer and ensuing orders; answer, consideration by this office, and ensuing orders; requests for hearing, hearings and ensuing orders; compromise; and collection.

MAY 1 1978

Appendix B

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Upon failure to pay any civil penalty due which has been subsequently determined in accordance with the applicable provisions of 10 CFR 2.205, the matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Atomic Energy Act of 1954, as amended, (42 USC 2282).

APPENDIX B

APPENDIX C

Rochester Gas and Electric Corporation
 Enforcement History Relating to Radiation Protection
 3/14/75 to 2/17/78

License No. DPR-18 Docket No. 50-244

MANAGEMENT MEETINGS

| <u>Date</u> | <u>Problems Initiating Action</u> |
|-------------|--|
| March 1978 | Continuing concerns related to the management and implementation of the Health Physics Program |

ESCALATED ENFORCEMENT ACTION

| | |
|------------|--|
| April 1975 | Civil penalty resulting from the exposure of an individual to concentrations in excess of the limits specified in 10 CFR 20.103. |
|------------|--|

NONCOMPLIANCE ITEMS

| <u>Inspection</u> | <u>Citations</u> |
|--|--|
| 75-04 (Inspection conducted on March 14-16, 1975 and on April 28 - May 21, 1975) | <p>Exposure of an individual to excessive airborne concentrations of radioactive materials.</p> <p>Failure to follow procedures relating to respiratory protective program. (Noted again during 76-11, 76-22, 77-06 and 78-03)</p> <p>Failure to comply with special work permit requirements.</p> |
| 76-11 (Inspection conducted on June 7-9, 1976) | <p>Failure to lock high radiation areas. (Noted again during 78-03)</p> <p>Failure to post and barricade high radiation areas. (Noted again during 78-03, 77-06 and 77-02)</p> <p>Failure to post radiation areas. (Noted again during 78-03)</p> |

Appendix C

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InspectionCitations

- 76-18 (Inspection conducted on October 13-15, 1976)
- 76-22 (Inspection conducted on December 1-2, 1976)
- 77-02 (Inspection conducted on March 21-25, 1977)
- 77-06 (Inspection conducted on April 26-29, 1977)
- Exposure greater than 1.25 rems without a properly completed Form NRC-4. (Noted again during 78-03)
- Failure to provide exposure history to terminated individuals within the time permitted. (Noted again during 78-03)
- Failure to label containers of radioactive material.
- Failure to follow procedures relating to instrument calibration. (Occurred previously in 75-04 and noted again during Inspections 76-22, 77-06 and 78-03)
- Failure to have individual on site qualified in radiation protection procedures when fuel was in the reactor.
- Failure to leak check radioactive sources at required intervals.
- Failure to follow procedures relating to radiation control. (Occurred previously in 75-04 and 76-11 and noted again in 77-06 and 78-03)
- Failure to barricade high radiation area. (Occurred previously in 76-11 and noted again during 77-06 and 78-03)
- Failure to perform beta surveys to assure compliance with 10 CFR 20.101 and 10 CFR 20.202. (Noted again during Inspection 78-03)
- Failure to post and barricade high radiation areas and failure to provide a continuously indicating radiation monitoring device. (Occurred previously in 76-11, 77-02 and noted again during 78-03)

Inspection

Citations

Failure to follow procedures relating to radiation control. (Occurred previously in 75-04, 76-11 and 76-22 and noted again during 78-03)

ATTACHMENT A

This attachment constitutes Rochester Gas and Electric Corporation's response, pursuant to 10 C.F.R. 2.201, to each alleged item of non-compliance listed in the Notice of Violation dated May 1, 1978.

ITEM I

"10 CFR 20.101, 'Exposure of individuals to radiation in restricted areas,' requires in section (a) that the dose to the whole body of an individual in a restricted area be limited to one and one-quarter rems per calendar quarter, except as provided in paragraph (b) of that section. Paragraph (b) allows a dose to the whole body of 3 rems per calendar quarter provided certain specified conditions are met. One of these conditions is that the individual's accumulated occupational dose to the whole body be determined on Form NRC-4, or on a clear and legible record containing all the information required by that form."

Contrary to the above, at least ten individuals received a dose to the whole body in excess of 1.25 rems but less than 3 rems during the second quarter of 1977, and the individuals' accumulated occupational doses to the whole body had not been determined in the manner prescribed.

This is an infraction (Civil Penalty \$4,000)."

RESPONSE

It is correct that this infraction occurred. It is the responsibility of the plant Health Physics Section to assure compliance with the requirements of 10 CFR 20.101 and 20.102 through adequate documentation when an individual is permitted to exceed 1250 mrem in a calendar quarter. The Health Physics Section had completed a Form NRC-4 initially for each of the ten individuals noted on Page 8 of Inspection Report 78-03 under the requirements of 10 CFR 20.101 and 20.102. However, an updated determination of accumulated dose for individuals exceeding 1250 mrem per calendar quarter was not provided in the case of certain temporary non-station employees who had resumed work at Ginna during 1977. This occurred in those cases because the checklists used to clear the employee for access indicated that he had previously completed the NRC-4, but did not indicate whether that form was up to date.

A review of Ginna Station contractor and visitor exposure records was performed to identify all individuals who received greater than 1250 mrem during any calendar quarter of 1977, for whom the corresponding Forms NRC-4 were incomplete. The names of persons so identified were forwarded to the Director, Region 1 on April 10, 1978.

Procedure HP-1.1 Issuing Personnel Dosimeters has been revised to require that any non-RG&E individual who has previously terminated work at Ginna Station or shows a period with no film badge issued, must complete a new Form NRC-4 with updated exposure history information. This practice was implemented prior to the 1978 Ginna Station refueling shutdown.

APPENDIX II

ROCHESTER GAS AND ELECTRIC CORPORATION • 67 EAST AVENUE, ROCHESTER, N.Y. 14609

LEON D. WHITE, JR.
VICE PRESIDENT

TELEPHONE
AREA CODE 716 246-2700

May 23, 1978

Dr. Ernst Volgenau, Director
Office of Inspection and Enforcement
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Subject: IE Inspection of the Radiation Protection Program
(IE Inspection No. 50-244/78-03)
R. E. Ginna Nuclear Power Plant, Unit No. 1
Docket No. 50-244

Dear Dr. Volgenau:

This letter and its attachments constitute the response of Rochester Gas and Electric Corporation to your transmittal of May 1, 1978, to our Mr. Paul W. Briggs, President. That transmittal, received on May 3, 1978, included a notice of violation and a notice of proposed imposition of civil penalties totaling \$31,000, associated with several alleged items of non-conformance, generally in the area of in-plant occupational radiation protection requirements.

Your letter expressed concern regarding the effectiveness of the Ginna Station radiation safety program in light of the reappearance of alleged items of non-compliance noted in previous inspections.

It is and has been Rochester Gas and Electric Corporation's policy to operate its nuclear facility in compliance with regulatory requirements. In some cases, by our choice, we have adopted more conservative measures than those required by the regulations. Management and senior management are dedicated to ensuring that the necessary plant programs are and will continue to be implemented so as to protect the health, interests, and safety of the employees and the public. We believe that overall the performance of the plant and its personnel has demonstrated that this responsibility has been carried out proficiently in the areas of operation and maintenance, despite the burgeoning of regulatory requirements, the continued reviews of existing standards, and backfits to respond to changed standards.

Over the years of our operation, we have continually fortified our radiation protection program with personnel and equipment as evaluated to be necessary, with the concerns of absolute health and safety a primary consideration in our evaluation. It is evident now, in the recent years, that the

DATE May 23, 1978

TO Dr. Ernst Volgenau, Director

attention of the regulators is increasing greatly in the area of radiation control, and that requirements are being enforced with a degree of rigor and literalness that did not exist in the past.

In overall assessment of the items of non-compliance set forth in your letter, we will agree that there have been a number of instances where compliance with procedures and requirements has not been rigorous. There are items involving maintenance of barriers and the adequacy of documentation needed to establish retrospectively that exposures in excess of requirements could not have occurred. It is important, however, that none of the items of non-conformance alleges an actual overexposure to any person. Nevertheless, we too are not satisfied with the level of non-conformance which has occurred, and are already well into the process of taking steps to strengthen our radiation protection program generally.

In our meeting with NRC Region I representatives on March 3, 1978, we proposed the following measures to be taken immediately which would strengthen our program in view of the forthcoming and imminent annual inspection, refueling, and overhaul period:

- a. We have instituted the concept of a foreman for our radiation protection group) and plan to continue utilizing this measure of supervision.
- b. We have provided the services of a professional to assist in the planning and operation of the health physics area during the outage.
- c. We have incorporated the procedure for and have performed the required weekly supervisory inspections of the radiation protection activities, thus providing an audit-approach overview of those activities.
- d. We immediately implemented and prior to the shutdown a review of the Ginna Station radiation protection for non-licensed and contractor personnel.
- e. A qualified consulting organization and the corporate quality assurance group made audits of the radiation protection program.

Your subsequent inspection during the outage witnessed the effectiveness of these measures. We ascertained that our earlier practice of a full-time radiation protection foreman for the technicians during an outage relieved the Health Physicist of his non-critical responsibilities for supervision and preparation of documentation, leaving greater time for his critical responsibilities. The use of a professional to assist in the administration and overall

DATE May 23, 1978

TO Dr. Ernst Volgenau, Director

surveillance of the radiation protection activities added expertise to the radiation protection work force during the stress of the outage. These additions allowed time for conducting the weekly supervisory inspections. Our experience during the outage shows excellent conformance of all individuals to the required health physics procedures. Although the acknowledged health physics meetings receive little credit in the training program, they have served to communicate procedural requirements to the technicians and have provided them with health physics-related information.

In further effort to strengthen the effectiveness of our radiation safety controls, we will take the following steps:

- a. We will institute a computerized program that will produce timely and required personnel exposure records in acceptable and readily retrievable form which we believe will assure rigorous compliance with the regulatory requirements.
- b. We will appoint an experienced radiation safety person as an administrative assistant to the Health Physicist to be responsible for the records and other forms, preparing work permits, and other details assigned by the Health Physicist. The present clerk or clerks will be responsible to this person.
- c. We will assign a qualified and professional technical assistant to the Health Physicist for special studies, for review of procedures, for providing shutdown assistance, and for providing training as required or directed.

While recognizing some deficiencies in our past performance, these responses outlined above offer evidence of the concern by our senior management to insure that our policy of giving the highest priority to safe operation and a healthy working environment are fully implemented in the future.

Our responses to the ten alleged items of non-conformance are set forth, pursuant to 10 CFR 2.201, in Attachment A to this letter. These responses include a discussion of the circumstances of each alleged non-compliance and of the specific remedial steps which have been and will be taken.

Appendix C to your letter contains a listing of historical items of non-compliance. In view of the importance placed by your letter on these events, we must correct certain inaccuracies which appear in that list. Attachment C to this letter addresses these corrections.

For two items (V and K.A.), we wish to contest the imposition of any penalty, and our objections, pursuant to 10 CFR 2.205, are contained in

ROCHESTER GAS AND ELECTRIC CORP.
DATE May 23, 1978
TO Dr. Ernst Volgenau, Director

SHEET NO. 4

Attachment B to this letter. In one case in particular (Item V), we believe our actions were understandable in light of the industry-wide confusion from overlapping regulatory requirements for shipping low specific activity wastes. The NRC has recently clarified the conflict between regulators and regulations; however, it did so subsequent to our alleged violation. In the other case, "Posting Contaminated and Airborne Areas" (Item IX.A.), there is involved only a difference in judgments in interpretation of (plant) procedures between inspectors and plant personnel.

For the remaining items, we believe that a general mitigation of the proposed penalties is appropriate for the following reasons:

- a. These instances of non-compliance did not result in a detrimental impact on health and safety of the public or plant personnel;
- b. the total amount of the civil penalties appears to be excessive in comparison to those which have been imposed on others in the past for situations of comparable seriousness;
- c. mitigating circumstances exist, as shown in Attachment A;
- d. the instances of repeated non-compliance referred to by NRC are not numerous, and the NRC's enforcement history overstates the degree of repetition, as shown in Attachment C; and
- e. credit should be given for the demonstrated interest and attention shown by our management as indicated by the results of the recent inspection during our present outage, by our prompt action in implementing the measures proposed in our March 3 meeting at Region I, and by our rapidly instituting proposed measures which we believe will assure rigorous conformance with radiation protection requirements.

We request a general mitigation of the proposed penalties to a level commensurate with the considerations set forth above.

Very truly yours,

Leon D. White, Jr.
Leon D. White, Jr.

Attachments

cc: Mr. Boyce H. Grier, Director
Region I

APPENDIX II

RESPONSE TO ITEM I (CONT'D)

In addition, Form NRC-5 was adopted for use in the first quarter of 1978 at Ginna Station and will be used in conjunction with existing station and non-station dose recording forms to assure that full compliance with regulatory requirements is maintained. Full implementation of Form NRC-5 in the Ginna Health Physics record-keeping program will be achieved by July 1978.

The use of Forms NRC-4 and NRC-5 in addition to the provisions of 10 CFR 20 pertaining to quarterly radiation limits and accumulated dose determination requirements will be reviewed with designated Health Physics personnel during future training sessions.

ITEM II

"10 CFR 20.201, 'Surveys', require that each licensee make or cause to be made such surveys as may be necessary for him to comply with the regulations of 10 CFR 20. As defined in 10 CFR 20.201 section (a) 'Survey' means an evaluation of the radiation hazards incident to the production, use, release, disposal, or presence of radioactive materials or other sources of radiation under a specific set of conditions.

Contrary to the above, no evaluation was made of radiation doses received during the one month period for which five individuals lost their film badges during the second quarter of 1977. This evaluation was necessary for compliance with 10 CFR 20.101, 10 CFR 20.408, and 10 CFR 20.409.

This is an infraction (Civil Penalty \$3,500)."

RESPONSE

It is true that no systematic documentation can be produced indicating that evaluations were made in these instances. Ginna Station employs the practice of issuing plant workers three types of personnel monitors (film badge, TLD and self-reading pocket dosimeter) according to established procedures or at the discretion of the Health Physicist. The film badge reading is used as the official exposure record, with redundancy provided by the TLD and pocket dosimeter dose indications in the event of a lost film badge. Exposure readings obtained from each device are recorded on the Monthly Exposure Record, and in addition, the self-reading pocket dosimeter readings are entered daily on each individual's Monthly Dose Summary Card, used for management control of ongoing plant exposures, particularly during outage periods.

The existing Health Physics record-keeping system at Ginna necessitates the manual transfer of exposure information from the above forms to more formal documents used for an individual's official exposure record.

RESPONSE TO ITEM II (CONT'D)

The Visitor's Film Badge Record and the Current Occupational Exposure Form were being utilized as official exposure records for non-station and permanent station personnel, respectively. In instances of a lost film badge, the individual's dose received during the lost badge period was determined from other recorded dosimeter readings or from radiation work area survey sheets available in the Health Physics Office. Despite the Health Physics Section's policy of performing lost film badge evaluations, subsequent clerical oversight resulted in the omission of certain individuals' dose received during lost badge periods on the official exposure records.

In the case of the lost or damaged film badges which are the subject of this item, exposures have been reconstructed from other reliable records in the manner normally followed by the Health Physics Section. Official exposure records have been reviewed and corrected accordingly to ensure the proper inclusion of all exposure received. In addition, amended occupational radiation exposure reports have been submitted to the appropriate non-RG&E individuals identified and to the Commission pursuant to 10 CFR 20.408 and 20.409.

Procedures HP-1.1 Issuing Personnel Dosimeters and HP-1.3 External Exposure Records have been revised as of March, 1978 to specifically address the documentation of dose assessment required in the event of a lost film badge. A lost film badge form has also been developed to assist the Health Physicist in the performance and documentation of lost badge dose evaluations.

More generally, however, there is a recognized need to strengthen and better coordinate the Health Physics record-keeping system. To this end, a comprehensive upgrading of the records system will commence on a priority basis to consolidate and computerize exposure data in a form that is both accurate and readily retrievable. In addition, careful supervision of the handling and reporting of all occupational exposure data will be the direct responsibility of an administrative assistant to the Health Physicist. The appointment of an experienced radiation safety person to this position will be made by June 1, 1978.

ITEM III

"10 CFR 20.203, 'Caution signs, labels, signals, and controls', requires in (b) that each radiation area be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words 'Caution, Radiation Area'. 10 CFR 20.202 section (b)(2) defines a "Radiation Area" as any area, accessible to personnel, in which there exists radiation, originating in whole or in part within licensed material, at such levels that a major portion of the body could receive in any one hour a dose of 5 millirem.

Contrary to the above, on January 31, 1978, an area outside the perimeter fence of the Upper Radwaste Storage Area, where radiation levels of 6 mrem/hr existed for more than one hour, was not posted as required.

This is an infraction (Civil Penalty \$3,500)."

RESPONSE

It is correct that a radiation level of 6 mrem/hr existed at one point on the perimeter fence of the Upper Radwaste Storage Area.

The storage area consists of a concrete bunker in an area surrounded by a chain link fence. The area is isolated and seldom used except for the occasional temporary storage of boxes containing low-level containment equipment. The boxes are stored outside the bunker within the fenced area. Surveys of the area prior to January, 1978 showed radiation levels of less than one mrem/hr at the perimeter of the fence. Both entrances to the fenced area were posted with "Caution, Radiation Area" signs.

A box labeled with a visible, "Caution Radioactive Material" sign was moved next to the fence to provide access to other material in the area. Placement of the box next to the fence increased the radiation level in a small area (within approximately one foot, for a distance of several feet along the fence) above the 5 mrem/hr limit up to 6 mrem/hr.

On January 31, 1978, when it was realized that the radiation level was above 5 mrem/hr at the fence, Health Physics supervision immediately had the box moved away from the fence. The radiation level was then reduced to 0.5 mrem/hr. Full compliance was achieved at that time.

To prevent further occurrences of this kind, the locks on the entrance gates have been changed and the keys placed under Health Physics control. A Health Physics work permit has been written for the area which includes a requirement for the area to be surveyed to insure the area is properly posted after any movement of material in the area. Additional "Caution, Radiation Area" signs have been placed on the fence. Health Physics personnel have been reinstructed in their responsibilities to immediately see to the correction of any deficiencies found when performing radiation surveys, including the posting of radiation areas.

ITEM IV

"10 CFR 20.408, 'Reports of personnel exposure on termination of employment or work', requires that when an individual assigned to work at the licensee's facility terminates his work assignment, the licensee furnish a report of the individual's exposure to radiation and radioactive materials to the Director of Inspection and Enforcement within 30 days after exposure has been determined or 90 days after the date of termination of work, whichever is earlier.

Contrary to the above, as of February 2, 1978, reports of exposure to radiation and radioactive material for two individuals, who terminated their work assignment in October 1977, were not furnished to the Director of Inspection and Enforcement.

This is a deficiency (Civil Penalty \$1,500)."

RESPONSE

It is correct that exposure reports for the two contractor individuals were not furnished by Ginna Station in the time period required by 10 CFR 20.408; however, the reports were in the process of being prepared in accordance with Health Physics reporting requirements. The reports were completed and furnished on February 8, 1978. The Health Physics clerk has been instructed on the importance of furnishing these reports within the period specified.

Augmenting capabilities in record-keeping and reporting, as described above in our response to Item II regarding our commitments to strengthen radiation safety controls, will provide greater assurance that the compliance with the reporting regulations is maintained.

ITEM V

"10 CFR 71.3, 'Requirement for license', requires that no licensee subject to the regulations in this part shall (a) deliver any licensed materials to a carrier for transport or (b) transport licensed material except as authorized in general license or specific license issued by the Commission, or as exempted in this part.

Contrary to the above, on April 13, 1977, the licensee delivered 460 Ci of licensed material to a carrier for transport without authorization in a general or specified license and no exemption in 10 CFR 71 was applicable.

This is an infraction (Civil Penalty \$3,000)."

RESPONSE

It is correct that delivery of licensed material was made without NRC approval, but we protest the imposition of any civil penalty. (See Attachment B). The 460 Ci of licensed material did qualify as low specific activity (LSA) material. The shipment met the packaging and transport requirements of the Department of Transportation regulations as specified in 49 CFR 173.392 for LSA material transported in a sole use transport vehicle. At the time of the shipment, neither RG&E nor the supplier of the cask and liner realized that each package containing more than Type A quantities of licensed material must be shipped in a NRC certified cask even though the material qualified as LSA. A random survey of five nuclear plants in Region I showed the earliest time when personnel at these plants became aware that the NRC packaging requirements applied to LSA materials was in October, 1977. Shipments had been made in accordance with DOT regulations which exempt LSA material from Type A and Type B packaging requirements. NRC regulations apparently do not provide for this exemption.

After April 13, 1977, no packages containing greater than Type A quantities were shipped during the remainder of the year. The one package shipped to date during 1978, containing greater than Type A quantities, was shipped in a NRC certified cask. The cask in which the April 13, 1977 shipment was made is presently in the process of being certified by the NRC.

RESPONSE TO ITEM V (CONT'D)

All procedures applicable to the shipment and packaging of radioactive waste are being revised to indicate a certificate of compliance issued by the NRC is needed for any package containing greater than Type A quantities of licensed material. These revisions will be completed by August 1, 1978.

ITEM VI

"10 CFR 20.401, 'Records of surveys, radiation monitoring, and disposal', requires in section (a) that each licensee maintain records showing the radiation exposures of all individuals for whom personnel monitoring is required, under 10 CFR 20.202 on Form NRC-5, in accordance with the instructions contained on that form or on a clear and legible record containing all the information required by Form NRC-5.

Contrary to the above, as of February 17, 1978, exposure records for individuals required to be monitored were not maintained on Form NRC-5 nor on a clear and legible record containing all the information required by Form NRC-5. Specifically, the Ginna, 'Visitor's Film Badge Record', Form 48-58, used to record exposures of non-station personnel did not contain information called for in items 5, 6, 7, 9, 10, 11, and 13 thru 18 of Form NRC-5, and the Ginna, 'Current Occupational Radiation Exposure', Form 49-27, used to record exposures of station personnel, did not contain information called for in items 7 and 13 of Form NRC-5.

This is a deficiency (Civil Penalty \$1,000)."

RESPONSE

It is correct that certain specific items of Form NRC-5 were not included on the Visitor's Film Badge Record and the Current Occupational Radiation Exposure Form. Two official exposure record forms were devised for use at the Ginna Plant; one used to record radiation exposure of all non-station workers requiring monitoring, and the other used for permanent Ginna personnel involved in plant radiation work. The Visitor's Film Badge Record, Form 48-58, (non-station personnel) serves as a multi-purpose record providing detailed information as to whole body and extremity dose, period of exposure (by month), date of whole body counting, training status, indication of initial Form NRC-4 completion, and designation of exposure reports sent to the worker and the NRC. While all items on Form NRC-5 have not been explicitly addressed on the Visitor's Film Badge Record, it has been our long-standing judgment that when used with other dose-accounting records maintained by Health Physics, the clear and legible equivalent of Form NRC-5 has been provided.

Similarly, the Current Occupational Radiation Exposure record, Form 49-27, (permanently-badged RG&E personnel) was considered to provide Form NRC-5 equivalency, in conjunction with other dose records employed by the Health Physics Section. Where Item 7 of Form NRC-5 refers to the method used for monitoring each type of radiation involved with work exposures, the Ginna Station Form 49-27 also requires designation of the method of monitoring used as well as the type of radiation to which the individual was exposed.

RESPONSE TO ITEM VI (CONT'D)

Item 13 of Form NRC-5, requiring entry of running total calendar quarter dose is in fact satisfied by the Ginna weekly (or daily) personnel exposure reports provided under Procedure HP-3.2 In-Plant Reporting of Current Exposures. Preparation and posting of these reports have been especially effective during shutdown periods involving numerous personnel and high exposure tasks.

As stated previously, the licensee acknowledges the need to further modify its present records management program. Form NRC-5 will be used for recording station and non-station personnel exposures as a measure to better standardize and consolidate exposure information. Use of the Form NRC-5 was adopted for use in the first quarter of 1978 and will be used in conjunction with existing station dose recording forms. Full implementation will be achieved by July, 1978.

ITEM VII

"Technical Specification 6.13, 'High Radiation Area', requires in Section 1.a that each High Radiation Area in which the intensity of radiation is 1000 mrem/hr or less be barricaded and conspicuously posted as a High Radiation Area.

Contrary to the above, on January 30, 1978, the Pressurizer Cubicle and an area in the basement adjacent to the Pressurizer Spray Tank had radiation intensities of 175 and 250 mrem/hr respectively and were not barricaded or posted as High Radiation Areas.

This is an infraction (Civil Penalty \$4,000)".

RESPONSE

It is correct that this occurred. The pressurizer cubicle must be reached by climbing up a stairway to the top of the cubicle, then a few steps across the top, then down a vertical ladder to a high radiation area on top of the pressurizer. A rope barricade and a high radiation area sign had been placed at the top of the stairway leading to the top of the cubicle. The barricade and sign had been taken down by maintenance personnel and not reinstalled when work was finished in the area. The sign was found near the bottom of the stairway. The high radiation sign and barricade were immediately put back in place.

The area near the Pressurizer Relief Tank (called Pressurizer Spray Tank in the Inspection Report) in the basement of the containment was in the area usually called the "B" steam generator area. There are two entrances to the "B" steam generator area and there were several small areas of high radiation within the "B" steam generator area. Maintenance had been performed in the area for several days to repair a primary to secondary tube leak in the "B" steam generator. The area had been correctly posted and barricaded as well as being under direct surveillance during the repair work. At the time of the inspection, final clean-up of the area had just been completed prior to plant start-up. A rope barrier had been incorrectly repositioned after the clean-up allowing access to a point near the Pressurizer Relief Tank where the radiation level over a small area was 100 mrem/hr

RESPONSE TO ITEM VII (CONT'D)

from an overhead pipe elbow. Attempts to barricade each high radiation area within the "B" steam generator area after the clean-up may have contributed to the incorrect placement of one barricade. Both entrances to the "B" steam generator area were posted with high radiation area signs and barricaded, returning the area to a properly posted area.

To prevent further occurrences of this kind, proper posting and barricading of the "B" steam generator area was reviewed with Health Physics personnel. A work request was submitted to install a self-closing gate at the top of the stairway leading to the pressurizer cubicle with a permanently attached sign designating the top of the pressurizer as a high radiation area.

In preparation for the annual refueling shutdown, two training sessions were conducted for all plant personnel in which the importance of maintaining proper barricades and signs for high radiation areas and the requirements to enter these areas was stressed by the Plant Superintendent, Supervisor of Chemistry and Health Physics, and the Health Physicist. In addition, all Health Physics personnel were instructed to check for proper posting and barricading of any high radiation areas encountered while en route to and from assigned work areas. The Health Physics foreman also made frequent tours of the controlled areas, giving particular attention to the barricading, posting and work being conducted in high radiation areas.

An administrative procedure, A-54.6, Health Physics Tour, was written and put into effect to provide for a weekly inspection of controlled areas by Health Physics supervision with review by the Plant Operations Review Committee.

Also, according to current administrative requirements, the containment building is surveyed, barricaded, posted and shielded before any personnel are allowed entry for maintenance work.

The effectiveness of these measures was confirmed during the refueling outage by the results of the NRC Inspection 78-07 as well as a subsequent QA audit.

ITEM VIII

"Technical Specification 6.13, 'High Radiation Area', requires in Section 1.b that each High Radiation Area in which the intensity of radiation is greater than 1000 mrem/hr shall be provided with locked doors to prevent unauthorized entry.

Contrary to the above, on January 30, 1978, an area in the basement containment near the Regenerative Heat Exchanger had radiation intensities as high as 1500 mrem/hr and did not have locked doors to prevent unauthorized entry.

This is an infraction (Civil Penalty \$3,500)."

RESPONSE

It is correct that this occurred. The Regenerative Heat Exchanger in the basement of containment was and continues to be posted and barricaded as a high radiation area. At the time of the inspection, the sign indicated a dose rate on the front of the heat exchanger of 400 mrem/hr.

The heat exchanger is located next to the containment wall, one end being 18 inches from the wall and the other end 32 inches from the wall. There were points on the back of the heat exchanger where the radiation levels on contact were 1500 mR/hr. It would be possible to stand between the heat exchanger and the wall, but only at one end. Also, it would be highly improbable that anyone would be behind the heat exchanger since no valves, instrumentation or other equipment are present that would require maintenance.

The area was considered to be in full compliance when doors to both containment entry hatches were locked during the subsequent plant startup.

Measures have been taken to provide the heat exchanger with a temporary locked enclosure any time the containment hatches are removed from locked area status.

As part of the initial containment radiation survey, this enclosure will be installed along with other barricades indicated in the response to Item VII.

ITEM IX

"Technical Specification 6.11, 'Radiation Protection Program', requires that radiation control procedures shall be prepared and made available to all station personnel and other persons who may be subject to radiation exposure at the station and the program shall be adhered to for all operations involving personnel radiation exposure.

- A. Procedure HP-6.2, Revision 0, dated October 5, 1976, 'Posting of Contaminated and Airborne Areas', requires, in step VI 1., that areas with smearable contamination greater than 10,000 dpm/100 cm² shall be barricaded and posted as contaminated areas, and requires in step VI 2 that areas with surface contamination greater than 100,000 dpm/100 cm² shall be barricaded and posted with a 'Caution, Airborne Radioactivity' sign.

Contrary to the above, on February 2, 1978, the Non-Regenerative Heat Exchanger Cubicle and the Radwaste Storage Tank Cubicle had smearable contamination levels of 12,000 and 86,000 dpm/100 cm² respectively, and were not posted as contaminated areas, and the Waste Evaporator Room and Waste Holdup Tank Room had surface contamination levels of 112,000 and 132,000 dpm/100 cm² respectively and were not posted with a 'Caution, Airborne Radioactivity' sign.

ITEM IX (CONT'D)

- B. Procedure A-1.1, Revision 3, dated March 23, 1977, 'Locked Radiation Areas', requires, in section 3.4, that when entry to a locked high radiation area is necessary, the Shift Foreman will authorize the issuance of the appropriate key and that all items on the Key Log be completed.

Contrary to the above, on February 2, 1978, a key to the Waste Evaporator Room, a locked high radiation area, was issued to allow entry of four individuals to work under Special Work Permit 143, and no items on the Key Log were completed.

This is an infraction (Civil Penalty \$4,000)."

RESPONSE:

IX A

We do not agree that this is an infraction and are objecting to the civil penalty (See Attachment B). It was not the intent of Procedure HP-6.2 to base the posting in any plant area upon the highest single contamination reading obtained from a number of smear samples taken. The requirements of HP-6.2 were to be applied when the major portion of the surface area in the room or cubicle surveyed had a contamination level of 10,000 dpm/100 cm² or 100,000 dpm/100 cm². This approach, in conjunction with other routine protection measures normally employed at the plant, has been effective in minimizing surface contamination and airborne radioactivity.

The Non-regenerative heat exchanger cubicle had one smear of 13,000 dpm/100 cm² and four other smears averaging 6,500 dpm/100 cm². The Refueling Water Storage Tank cubicle (called Radwaste Storage Tank Cubicle in the Inspection Report) had one smear of 87,000 dpm/100 cm² and eight others averaging 8,000 dpm/100 cm². Neither area had been considered to have a major portion of the surface area in excess of 10,000 dpm/100 cm². At the time of the inspection these areas were and are barricaded, locked, and as a precaution, had step-off pads at the entrances requiring extra shoe protection on entry; these measures were deemed conservative due to the redundant protection already provided.

The Waste Hold-up Tank Room had been decontaminated prior to the beginning of the inspection. Apparently the inspector was not aware of the contamination levels after the decontamination effort. The survey of January 13, after decontamination, indicated all the surface area was less than 10,000 dpm/100 cm². No "Caution, Airborne Radioactivity" signs were required. The Waste Evaporator room had one smear indicating a contamination level of 132,000 dpm/100 cm² and six others averaging 6,000 dpm/100 cm². The highest contamination level was not in the main work area and involved a small amount of floor area. Since a majority of the surface area was less than 100,000 dpm/100 cm² the area was not required to be posted as "Caution Airborne Radioactivity". At the time of the inspection, these areas were barricaded, locked, and as a precaution, had step-off pads in place at the entrances requiring extra shoe protection on entry; principles of conservatism and redundancy were applied again in this case.

IX A (CONT'D)

Procedure HP-6.2 is being revised in order to explicitly define the posting requirements in accordance with the intent of the procedure as described in the first paragraph.

IX B

It is correct that a key log entry for the issuance of the waste evaporator room key for the work witnessed was omitted. On that day in question orders had been given to continue operation of the waste evaporator and boron recycle evaporator. At the same time the plant was in the process of preparations for returning the unit to operation after a cold shutdown. The day shift operator for the Auxiliary Building had run the waste evaporator only for a short interval, observing a trouble condition in its operation, and returned the key to the Control Room. Near the end of the daylight workday preparations were made to effect repairs to several waste evaporator package valves, with the preparation of a Special Work Permit (SWP), which indicated a general work area dose rate of 50 mr/hr and 250 mr/hr at the feed tank of the package. The SWP issued specified the use of a dose rate meter for the job so that those at the work area would be assured of continuous knowledge of dose rate levels during the work.

The preparations included bringing a crew together which had been involved in other assigned work during the day. The SWP was then approved by the Shift Foreman, thus authorizing the work to be done in the waste evaporator room. A copy of the SWP was delivered to the Control Room personnel to assure their knowledge of the work to be done in the waste evaporator room. The crew reported outside the work area finding it locked; the key was hurriedly obtained and delivered, allowing the work to begin with the inadvertent omission of the required key log entry. After completion of the work the key was returned to the Control Room by the evening shift operator assigned to the Auxiliary Building.

As a result of entry omission operations personnel have been instructed that all use of locked high radiation area keys must be logged.

Periodic checking of locked high radiation area doors has been implemented in an administrative procedure A-54.6 Health Physics Tour, as discussed in the response to Item VII. This includes checking the locked radiation area key log.

The emphasis on proper administration of this system has been reflected in its successful implementation during the recent annual refueling maintenance shutdown.

ITEM X

"Technical Specification 6.4, 'Training', requires that a retraining and replacement training program for the facility staff shall be maintained under the direction of the Training Coordinator and shall meet or exceed the requirements and recommendations of Section 5.5 of ANSI N18.1-1971.

ITEM X (CONT'D)

Procedures A-50.9 and A-50.9.2, developed pursuant to this Technical Specification, establish the details of the retraining and replacement training program for the Non-Licensed staff, and lists ten lecture topics which are specified to be presented at least once during the two year cycle.

Contrary to the above, the retraining and replacement training program for members of the Health Physics Staff was not maintained for the two year cycle beginning March 1976. Of the ten lecture topics to be presented at least every two years, one was presented in March 1976. None of the other lectures have been presented as of March 17, 1978.

This is an infraction (Civil Penalty \$3,000)."

RESPONSE

It is correct that retraining and replacement training for members of the Health Physics Staff was not maintained in accordance with Technical Specification requirements for the two year cycle beginning March 1976. At the time procedures A-50.9 Facility Staff Training and A-50.9.2 Non-Licensed Staff Retraining Program were issued, in 1976, they were intended to involve the supervisory, professional, and licensed staff and the operations group. In 1977, a Technical Specification amendment broadened the scope of the term "facility staff" to include Non-licensed foremen, technicians, repairmen and handymen.

An October 1976 internal audit performed prior to the issuance of this Technical Specification amendment recognized that procedure A-50.9.2 was unrealistic in view of the broadened definition of facility staff, and that the development of a new program was advisable. A Task Assignment was issued to develop and implement the necessary retraining under this new scope. In 1977, further sessions prescribed by the existing procedure A-50.9.2 were postponed due to commitments of a higher priority.

It is important to note, however, that over 10 sessions involving the Health Physics staff were held between late 1976 and early 1978 to address various radiation protection-related topics. Subject areas covered in these sessions included: biological effects of radiation, exposure control, respiratory protection, sampling and detection methods, and emergency training. Practical demonstrations and drills associated with some of the above sessions were also held during this period. This training was conducted to assure that the Health Physics personnel were familiar with established regulations, procedures and practices and to further increase the staff's overall level of radiation protection knowledge and skills.

Since then a matrix of all personnel at the Station by job title has been prepared. A draft revised training program reviewed by the inspectors during Inspection 78-03 has been proposed in order to clarify training and retraining requirements for station personnel by job title.

RESPONSE TO ITEM X (CONT'D)

It will provide a formalized structure which includes training subjects that have been carried out for general employees and specialized groups. It includes the following subjects in which the Health Physics Staff has participated.

- a. Medical Emergencies training and drills
- b. Emergency Plan training and drills
- c. Administrative requirements
- d. Security requirements

The program for the Health Physics group will include, as with each individual group, the necessary technical information for performance of their jobs. This procedure is expected to be implemented by July 1, 1978.

In regard to the non-licensed personnel in general, retraining on radiation protection matters was provided prior to the recent annual refueling maintenance shutdown in two sessions so that personnel working at the station would be able to attend.

ATTACHMENT B

In this attachment, Rochester Gas and Electric Corporation ("RG&E"), pursuant to 10 CFR 2.205, protests the imposition of penalties for two of the specific items of non-compliance (Item V and Item IX.A.), listed in the Notice of Proposed Imposition of Civil Penalties.

The Notice of Violation alleges that Rochester Gas and Electric Corporation ("RG&E") delivered licensed materials to a carrier without complying with NRC applicable requirements of 10 CFR Part 71. A civil penalty of \$3,000 is proposed.

RG&E considers that the imposition of a civil penalty for the above-cited infraction is unwarranted and inequitable. The materials transported were Low Specific Activity (LSA) wastes transferred to a carrier for transport in compliance with the applicable Department of Transportation ("DOT") regulations, 49 CFR Parts 170-189. That LSA shipment was made by RG&E with the understanding that compliance with the DOT regulations also satisfies the applicable NRC requirements.

This understanding has been recently corrected by IE Circular 78-03 issued by NRC to licensees on May 12, 1978. IE Circular 78-03 notes that several other licensees have also been confused, and mentions the general inadequate understanding of Part 71 requirements regarding LSA material. It specifically mentions that differences between Part 71 and the DOT requirements in 49 CFR Parts 170-189 have contributed to these misunderstandings.

It now appears that NRC has been aware of this confusion for some time. Energy Research and Development Administration ("ERDA"), in a letter dated July 23, 1975 from Mr. William Brobst, Chief of the Transportation Branch, pointed out to the Commission that the technical requirements of the Department of Transportation and the NRC on this subject were then inconsistent. ERDA's letter, which petitioned for a rulemaking on this subject (PRM 71-1, 40 Fed. Reg. 43517, 22 September 1975) pointed out that there were indications that the AEC erred in publishing the rule in its present form and that it was not originally intended for LSA materials to be packaged in Type A or Type B packaging. ERDA added that the inconsistency was a source of confusion in the nuclear industry.

The origins of the misunderstanding are apparent from the terms of the Memorandum of Understanding between the DOT and the AEC entered into on March 27, 1973 and then published at 38 Fed. Reg. 8466 (April 2, 1973). That document indicates that the regulations promulgated by DOT and the AEC were intended to be both consistent and comprehensive.

RG&E's action in April, 1977 reflected the confusion of licensees throughout the industry at that time as to the applicable standards to be followed. A random survey of five nuclear plant licensees in Region I showed that the earliest that personnel at any plant became aware that NRC packaging requirements different from those of DOT applied to LSA activity was in October, 1977. Despite being aware of the confusion as early as 1975, NRC (AEC) took no steps

APPENDIX II

to remedy this confusion by notifying licensees until this month, more than a year after the alleged time of non-compliance by RG&E. The citation for this infraction and imposition of a \$3,000 civil penalty in May of 1978 are unreasonable in view of the equities of the situation. As was observed by several of the commenters on the ERDA petition for rulemaking, "the packaging and transportation of LSA material in accordance with DOT requirements have been performed for a number of years with no harmful effects on the health and safety of the public". In its December 31, 1974 Criteria for Determining Enforcement Action, the NRC stated that civil penalties may be appropriate in cases meeting one of several criteria. The facts underlying this particular citation do not lead to the conclusion that any of those criteria are applicable. RG&E wishes to point out that this is not a case of ignoring an infraction for which there has been a previous citation, nor did the item of non-compliance result in or contribute to the cause of a serious accident or incident or any other problem of public health and safety.

In light of the confusion resulting from the inconsistency between the DOT and NRC regulations, and NRC's role in failing to mitigate this confusion in a timely fashion, the imposition of a civil penalty of \$3,000 for this particular item of non-compliance is unjustified. Accordingly, RG&E asks that the NRC reconsider this item and eliminate the penalty proposed.

ITEM IX.A.

The Notice of Violation alleges that RG&E did not follow its own radiation protection procedure HP-6.2 (Revision 0) involving the posting and/or barricading of certain areas showing higher than specified smearable contamination levels. A civil penalty of \$4,000 is proposed for this item together with item IX.B.

RG&E considers the penalty imposed to be unwarranted. The HP-6.2 procedure was to be applied when the major portion of the surface area in the room or cubicle surveyed had a contamination level of 10,000 dpm/100 cm² or 100,000 dpm/100 cm². The procedure was not intended to be applied upon attaining a single contamination level in excess of this stated level.

As shown in RG&E's response to Item IX.A., RG&E did not ignore its own procedures but merely acted on its own interpretation of a contamination survey and posting procedure which is different from that of the NRC inspectors. While Technical Specifications do require radiation protection procedures to be followed where they bear on occupational exposures, a licensee's interpretation of its own procedure should be permitted to stand, particularly where, as here, the licensee's interpretation is consistent with all regulatory standards and requirements bearing on radiation protection. We have no objection to discussing with the NRC whether the procedure, as interpreted by us, should be changed. However, treating RG&E's application of Procedure HP-6.2 as an infraction calling for a civil penalty is completely unwarranted.

Accordingly, RG&E asks that the NRC reconsider this item and eliminate the portion of the proposed penalty which is attributed to item IX.A.

ATTACHMENT C

This attachment contains RG&E's corrections to Appendix C to the May 1, 1978 letter from Dr. Ernst Volgenau to Mr. Paul W. Briggs.

RG&E acknowledges that recurrent items of non-compliance have been reported. As indicated in the letter above, steps are being taken generally to strengthen the management and implementation of the radiation protection program for the Ginna plant. However, Appendix C to the NRC letter of May 1, 1978 includes items for which RG&E had provided information indicating disagreement following the inspection, and includes several erroneous details. These items are discussed here because they may have been reflected in the severity of the proposed monetary penalty.

Under Inspection 75-04 the citation "Failure to follow procedures relating to respiratory program" the inspection reports referenced include no mention of the respiratory program in the lists of violations.

Under Inspection 76-11 the citation "Failure to lock high radiation areas" had been in RG&E's opinion incorrect, since it had applied a new 18" criterion for areas in which the source location was not deemed to be such that a major portion of the body could receive in any one hour a dose in excess of one rem. Also cited was an access to an area which required a person to climb on pipes to enter the area.

Under Inspection 76-11 the citation "Failure to follow procedures relating to instrument calibration" the inspection reports referenced as previous or subsequent occurrences include no mention of instrument calibration in the lists of violations.

Under Inspection 77-06 the citation "Failure to perform beta surveys to assure compliance with 10 CFR 20.101 and 10 CFR 20.202" had been in our opinion incorrect, since evaluation based on previous work indicated that the regulations did not require such surveys. The inspection report referenced as a subsequent occurrence included no mention of beta surveys in the lists of violations.

Under Inspection 77-06 the citation "Failure to post and barricade high radiation areas and failure to provide a continuously indicating radiation monitoring device" the referenced inspection reports include no mention of the monitoring device in the lists of violations.