

50-333

APR 03 1994

MEMORANDUM FOR: James Lieberman, Director
Office of Enforcement

FROM: Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

SUBJECT: PROPOSED EXERCISE OF ENFORCEMENT DISCRETION-
(FITZPATRICK)

We have reviewed the Regional Enforcement Recommendation regarding New York Power Authority (Fitzpatrick) dated March 22, 1994, from the transportation standpoint. We concur with the action proposed by the Region. Our specific comments are provided below.

Two topics seem particularly pertinent to this incident: the regulatory significance of the violation, and whether the message given to the licensee is appropriate to the situation. We agree with Region I that the regulatory significance of this incident, a Severity Level III, does not appear to be in balance with the minor safety significance. Further, given the comprehensive measures taken by this licensee to prevent weeping, and that a definitive solution to weeping is not available, issuing a Notice of Violation would not appear to serve any useful purpose. Accordingly, I concur with Region I's recommendation for this enforcement discretion.

Original signed by
Robert M. Bernero

Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

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