

Docket No. 50-333
License No. DPR-59
EA 91-048

New York Power Authority
James A. FitzPatrick Nuclear Power Plant
ATTN: Ralph Beedle, Executive Vice
President - Nuclear Generation
123 Main Street
White Plains, New York 10601

Gentlemen:

Subject: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY - \$137,500
(NRC Inspection Report No. 50-333/91-80)

This letter refers to the NRC Augmented Inspection Team (AIT) inspection conducted between March 19-28, 1991 at the FitzPatrick Nuclear Power Plant, Scriba, New York. The inspection report was sent to you on May 20, 1991. During the inspection, the inspectors reviewed the circumstances associated with an event which occurred at the facility on March 18, 1991 involving the inadvertent and unmonitored release of radioactive materials to an unrestricted area in an amount in excess of the limits specified in the FitzPatrick Technical Specifications. The release pathway was from one of the radwaste concentrators to the environment via a vent in the auxiliary boiler system. The release resulted in contamination of the ground and soil outside the auxiliary boiler, walls and roofs, as well as drainage of radioactive material into Lake Ontario. The event was identified by your staff and reported to the NRC. On June 7, 1991, an enforcement conference was conducted with you and members of your staff to discuss the event, the related violations, their causes and your corrective actions.

The violations are described in the enclosed Notice of Violation and Proposed Imposition of Civil Penalty. The violations consisted of: (1) the unmonitored release, for a short period, of radioactive material to unrestricted areas in amounts as high as 65 times the limit set forth in the Radiological Effluents technical specification (the release also resulted in radiation levels in the West Storm Drain outfall area as high as 5-10 millirem/hr); and (2) the failure, by plant staff, to follow procedures during the operation of the radwaste concentrators, as well as the failure to ensure, on a number of occasions, that the procedures were adequate to perform the applicable tasks.

The NRC considers this event serious since it resulted in the release of radioactive materials to unrestricted areas. Although the radiological

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significance of the event was limited by the fact that the release existed for only a short period and actions in response to the event were prompt and effective in mitigating the consequences of the release, the NRC is concerned that the event occurred as the result of inadequate control of activities at the facility. Specifically, the existence of the potential release path, as well as the associated problems of procedural adequacy and procedural adherence, were previously identified to plant management on a number of occasions between 1975 and 1990; however, actions to correct the deficient conditions were inadequate.

The NRC recognizes that subsequent to the inspection, actions were initiated to correct these violations and prevent recurrence. These corrective actions, which were described at the enforcement conference, included (1) initiation of immediate action to declare an unusual event, commercial shutdown of the reactor, determine the extent of the contamination, secure the source of the release, and estimate the amounts of material released; (2) initiation of short term corrective actions to mitigate the spread of contamination, and process the contaminated water, including water from roof drains; and (3) initiation of long-term recovery actions to complete all decontamination of buildings and grounds, improve the radwaste operating procedures, affirm management expectations concerning the need to adhere to operating procedures, assign responsibility for radwaste operations to licensed operators, and review outstanding work orders and modifications to determine if other conditions existed that could result in the loss of control of radioactive material.

Notwithstanding those corrective actions, this incident constituted a significant event since it involved the release of radioactive materials to an unrestricted area. Therefore, to emphasize the importance of (1) proper control of activities at your facility, including controls to assure adequacy of, and adherence to, procedures so as to preclude such events in the future, and (2) initiation of appropriate corrective actions whenever conditions adverse to quality exist at the facility, I have been authorized, after consultation with the Director, Office of Enforcement, and the Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations and Research, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the amount of \$137,500 for the problem set forth in the enclosed Notice.

The base civil penalty amount for a Severity Level III problem is \$50,000. The escalation and mitigation factors set forth in the enforcement policy were considered, as described below, and on balance, 175% escalation of the civil penalty is warranted. Although the violation involving the release of radioactive material to an unrestricted area was identified by your staff and reported to the NRC, no mitigation of the base civil penalty on this factor is warranted since the event was self-disclosing. Additionally, you had reasonable opportunities to discover and correct the other violation (involving procedural problems and inadequate corrective actions) which could have prevented the occurrence of this event.

The corrective actions noted above effectively mitigated the consequences of the release, and also included efforts to prevent recurrence of such releases, and therefore, 25% mitigation on this factor is warranted. Full 50% mitigation on this factor is not warranted because the actions taken to ensure that deficiencies, when they exist, are promptly identified and corrected, were not extensive. Specifically, you have not adequately addressed how, in the future, your management controls will properly respond to a succession of problem indicators similar to those that preceded this event. Your past performance in the Safety Assessment/Quality Verification functional area has declined, as evidenced by the Category III rating in the initial SALP report, dated May 15, 1991, for the most recent SALP assessment period (October 1989 - January 1990). In that SALP assessment, the NRC noted that once deficiencies were identified, root cause evaluations were sometimes ineffective and corrective actions were not always timely. The SALP also noted that your progress on a previous SALP issue, dealing with upgrading procedure quality and assuring appropriate procedural implementation, was limited. Therefore, 100% escalation of the base civil penalty based on poor past performance is warranted. Since you had prior notice of various problems with the radwaste system and failed to correct them over an extended duration, 100% escalation on those factors is warranted. The other escalation/mitigation factors were considered, and no further action based on those factors is warranted.

You are required to respond to the enclosed Notice and, in preparing your response, you should follow the instructions specified therein. In your response, you should document the specific actions taken, any additional actions you plan to take to prevent recurrence, and your assessment of any underlying management deficiencies which may have contributed to the occurrence of this event. Additionally, you should discuss how deficiencies in your corrective action program may have contributed to the unmonitored release and what actions you are taking to strengthen this program. After reviewing your response to this Notice, including your proposed corrective actions, and the results of future inspections, the NRC will determine whether further enforcement action is necessary to ensure compliance with NRC regulatory requirements.

In accordance with 10 CFR 2 '90 or the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter and the enclosure will be placed in the NRC's Public Document Room.

The responses directed by this letter and the enclosure are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Sincerely,

ORIGINAL SIGNED BY
WILLIAM T. KANE



Thomas T. Martin
Regional Administrator

Enclosure: Notice of Violation and Proposed
Imposition of Civil Penalty

cc:

J. Brons, President
J. Gray, Director, Nuclear Licensing - BWR
G. Goldstein, Assistant General Counsel
Supervisor, Town of Scriba
R. Converse, Resident Manager
Department of Public Service, State of New York
State of New York, Department of Law
Public Document Room (PDR)
Nuclear Safety Information Center (NSIC)
NRC Resident Inspector
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*Rev'd by
 Ted Eastland for
 OE on 7/12
 DM 7/16/91*