

SEP 15 1992

Docket No. 50-333
License No. DPR-59
EA 92-033

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

Dear Mr. Beedle:

Subject: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL
PENALTIES - \$500,000
(NRC Inspection Report Nos. 50-333/91-22; 50-333/91-26; 50-333/92-80; and
50-333/92-81)

This letter refers to four NRC inspections conducted at the FitzPatrick Nuclear Power Plant, Scriba, New York, between December 2, 1991 and May 1, 1992, including a followup inspection of the findings of an NRC Diagnostic Evaluation Team (DET) assessment conducted in September and October 1991, and team inspections associated with your fire protection program and service water system. The inspections consisted of reviews of several activities at the facility. The inspection reports were sent to you on January 27, 1992, February 20, 1992, April 15, 1992, and June 11, 1992, respectively.

During these inspections, numerous violations of NRC requirements were identified, in several different areas, including violations associated with: (1) inadequate control of a design modification for the analog transmitter trip unit system (ATTS) relays, and post modification testing of the equipment affected by the modification; (2) the failure to adequately identify and correct certain conditions adverse to quality that existed at the facility; (3) inadequate implementation of the fire protection program; (4) the failure to meet certain 10 CFR Part 50, Appendix R requirements; and (5) the submittal of incomplete and inaccurate information to the NRC on several occasions. On March 18, 1992 and June 24, 1992, enforcement conferences were conducted with you and members of your staff to discuss the violations, their causes and your corrective actions. The violations are described in the enclosed Notice of Violation and Proposed Imposition of Civil Penalties (Notice).

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RETURN RECEIPT REQUESTED

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The violations set forth in Section I of the Notice involve the failure to establish the qualification of the ATTS relays in the reactor protection system (RPS), as well as the inadequate response time testing of the RPS to verify system operability after the relays were installed in 1985. A failure of these relays could have potentially resulted in a failure of the RPS to shut down the reactor if required. The NRC is concerned that, although the industry has experienced problems in the past with Amerace Agastat relays as described in Bulletin 84-02, and Information Notice 84-20, your staff did not provide effective engineering and technical staff response to those prior indications of problems. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy) 10 CFR Part 2, Appendix C, the associated violations in Section I of the Notice have been categorized in the aggregate as a Severity Level III problem.

The violation set forth in Section II of the Notice involves numerous examples of the failure to identify and correct certain conditions adverse to quality at the facility. These conditions included a steam leak in the residual heat removal (RHR) system, numerous motor-operated valve failures in low pressure coolant injection (LPCI) system, and small bore piping failures on various plant systems. As a result, various plant systems were degraded over an extended period of time, even though opportunities existed to identify and correct these conditions. The NRC is particularly concerned because enforcement action had been taken in the past as a result of your failure to identify and correct conditions adverse to quality that existed at the facility. For example, a civil penalty in the amount of \$75,000 was assessed on March 13, 1989, for such a violation (Reference: EA 88-304). Nonetheless, improvements in your corrective action system were not effective. This violation has been classified at Severity Level III in accordance with the Enforcement Policy.

The two violations set forth in Section III of the Notice involve multiple deficiencies in several areas of the fire protection program. The first violation involves: (1) the lack of control of combustibles and ignition sources; (2) the inadequacy of fire watches, the fire brigade, and fire fighting pre-plans; and (3) the inadequacy of fire protection plant inspections. The second violation involves the failure to identify and correct several conditions adverse to quality concerning the fire protection program at the facility. Collectively, the two violations indicate a breakdown in the control of activities associated with the fire protection and prevention program, and therefore, have also been categorized in the aggregate as a Severity Level III problem in accordance with the Enforcement Policy.

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The violations set forth in Section IV of the Notice involve four examples of the failure to meet the requirements in 10 CFR Part 50, Appendix R. The violations include significant failures to meet the fire protection requirements established to protect and enable operation of safe-shutdown equipment identified in the fire hazards analyses, including redundant safety trains in the North Cable Tunnel and the Battery Room Corridor, whose functions are required to achieve hot shutdown. These violations have also been categorized in the aggregate as a Severity Level III problem in accordance with the Enforcement Policy.

The violation set forth in Section V of the Notice consists of the submittal of incomplete or inaccurate information to the NRC in various documents submitted to support a proposed change to the Technical Specifications, as well as three Licensee Event Reports submitted to the NRC. This violation has also been classified at Severity Level III in accordance with the Enforcement Policy.

The violations, when considered collectively, indicate a significant breakdown in management and administrative control of licensed activities at the FitzPatrick facility. Maintaining the qualification of safety equipment, performing appropriate testing after replacement of equipment, identifying and correcting problems when they exist, developing and implementing the fire protection and Appendix R programs, and providing complete and accurate information to the NRC, are fundamental elements of any program for operating and maintaining a nuclear power plant in a safe manner.

The NRC recognizes that actions have been initiated by management to correct these violations and prevent their recurrence, as well as to improve operations generally at the facility. These actions, which were described in the inspection reports and at the enforcement conferences, included: (1) the correction of the technical issues associated with ATTS relays, including the replacement of all ATTS relays with new relays; (2) revising the modification process to provide specific guidance and criteria for evaluation and consideration of the effect of such modifications on the design basis; (3) establishing a fire protection organization within the Nuclear Generation Department that is responsible for the resolution of all fire protection concerns; (4) designating the Fire and Instrument & Control Manager as the individual responsible for the implementation of the fire protection program; (5) completing a safe shutdown capability reassessment, in accordance with 10 CFR Part 50, Appendix R; (6) stopping all plant work for five days until all excess combustibles were cleaned up; (7) implementing a Results Improvement Program (RIP) to improve oversight and direction of facility operations in response to the findings of the NRC DET assessment and your own internal reviews; and (8) plans to establish a standard for documents required to be submitted to the NRC in order to demonstrate compliance with regulatory requirements. In addition, the FitzPatrick plant has been shut down since November 1991 to correct deficiencies, and we understand that your staff will not restart the reactor without first consulting with the NRC.

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Notwithstanding these corrective actions, to emphasize the significance of the conditions that existed at FitzPatrick, and to ensure that (1) the plant is operated and maintained safely and in accordance with Technical Specifications, and (2) conditions adverse to quality, when they exist, are properly identified and corrected, I have been authorized, after consultation with the Director, Office of Enforcement, the Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations and Research, and the Commission, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalties (Notice) in the cumulative amount of \$500,000 for the violations set forth in the enclosed Notice.

The base civil penalty amount for a Severity Level III violation, or problem is \$50,000. Application of the escalation and mitigation factors set forth in the enforcement policy, would result in civil penalty amounts in excess of \$100,000 for each of the Severity Level III violations or problems set forth in Sections I-V of the Notice. Specifically, NRC identified most of the violations, some of which involved multiple examples, poor past performance, prior notice and duration. However, the NRC has decided to exercise enforcement discretion and limit the civil penalty amount for each of the five violations or problem areas to \$100,000, the maximum civil penalty for a single violation per day. This discretion is being exercised in light of the significant measures taken by NYPA management after these violations were identified by the NRC. These measures demonstrate a significant commitment of personnel and financial resources, and the NRC encourages your continued effort in this area. Notwithstanding the positive attitude and significant effort of NYPA in addressing the root causes of the violations, this civil penalty is intended to provide a message to both NYPA and other licensees that the violations at issue here are significant and represent unacceptable performance.

In addition to the violations being assessed civil penalties, two other violations were identified in the inspection reports. These violations are enclosed in Section VI of the Notice and are classified at Severity Level IV.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. After reviewing your response to this Notice, including your proposed corrective actions and the results of future inspections, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be placed in the NRC Public Document Room.

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The responses directed by this letter and the enclosed Notice 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. No. 96-511.

Sincerely,

Original Signed By:
Thomas T. Martin

Thomas T. Martin
Regional Administrator

Enclosure:
Notice of Violation and Proposed Imposition
of Civil Penalties

cc w/encl:

J. Brons, President

H. Salmon, Jr., Resident Manager

G. Goldstein, Assistant General Counsel

J. Gray, Jr., Director, Nuclear Licensing - BWR

Supervisor, Town of Scriba

C. Donaldson, Esquire, Assistant Attorney General, New York Department of Law
Director, Power Division, Department of Public Service, State of New York

K. Abraham, PAO-RI

Public Document Room (PDR)

Local Public Document Room (LPDR)

Nuclear Safety Information Center (NSIC)

NRC Resident Inspector

State of New York, SLO Designee

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RI:DRS Bettenhausen <i>MS</i> 07/2/92	RI:DRS Hodges <i>Mund</i> 07/2/92	RI:RC Smith <i>out of office</i> 07/1/92	RI:DRA Kane <i>out of office</i> 07/1/92	RI:RA Martin <i>[Signature]</i> 08/4/92
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OE Lieberman 07/1/92	DEDR Sniezek <i>Commissioner</i> 07/1/92
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Rec'd by phone fr
OE, Trostkoeki,
on 9/14/92
DYM