

NIAGARA MOHAWK POWER CORPORATION

NIAGARA  MOHAWK

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SYRACUSE, N Y 13202

GERALD K. RHODE
SENIOR VICE PRESIDENT

June 30, 1983

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

50-410

Gentlemen:

This letter constitutes this Corporation's response to the Notice of Violation and Proposed Imposition of Civil Penalty which was transmitted to us from the Administrator of Region I, on April 26, 1983 and includes the written statement of our explanation required by 10 C.F.R. §2.201 and the Company's response pursuant to 10 C.F.R. §2.205.

The violation, as stated by the NRC in its Notice of Violation, is set forth below:

"10 CFR 50, Appendix B requires that each licensee implement a quality assurance program to be applied to the design, fabrication, construction and testing of the structures, systems and components of the facility.

Contrary to the above, the licensee did not comply with the provisions of Appendix B for the period June 1 through September 17, 1982 as evidenced below:

- A. Criterion I of Appendix B requires the establishment and execution of a quality assurance program which assures that activities affecting safety-related functions have been correctly performed.

Niagara Mohawk Power Corporation's application for a Construction Permit for Unit 2 commits to adherence to ANSI N 45.2.6-1978. This standard requires that each

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person who verifies the conformance of work activities to quality requirements shall be certified by his employer as being qualified to perform his assigned work, and the period of certification shall be established. ANSI N 45.2.6-1978 also requires a Level I rating classification as a prerequisite for inspecting and accepting safety-related installations. Stone & Webster Engineering Corporation Quality Assurance Directive (QAD) 2.5, Revision F, allows trainees possessing Associates Degrees to be certified as Level I inspectors after a three month training period provided the trainees work under the direct supervision of higher level personnel capable of performing assigned tasks.

However, numerous safety-related electrical installations (involving studwelding, embedments, supplemental steel, cable, raceways, welding, and raceway supports) were inspected by Stone & Webster personnel classified as trainees with Associate Degrees. Installations inspected by these trainees were accepted by Stone & Webster even though the trainees were not certified because they did not possess the required three months inspection experience.

- B. Criterion XVII of Appendix B requires, in part, that sufficient records be maintained to furnish evidence of activities affecting quality.

However, Stone & Webster Level II quality assurance inspectors signed several inspection reports indicating they had performed the inspection when, in fact, the inspections were performed by a trainee. Stone & Webster's first and second line supervision was aware of this practice, but did not take action to discontinue it.

This is a Severity Level III violation (Supplement II)
Civil Penalty - \$100,000"

Subsequent to the reactivation of the Nine Mile Point 2 Project on May 1, 1981, in order to support the planned construction activities, SWEC initiated staff increases in all disciplines, including Quality Assurance. These staffing increases were planned to appropriately balance relative levels of manning in each area of activity. It has always been the policy of NMPC as well as SWEC, that if sufficient numbers of qualified inspection personnel were not available, construction activities at the Nine Mile Point Nuclear Station would be curtailed

to the level supportable by qualified inspection personnel. NMPC and its contractors, including SWEC, recognize that production pressures should never be allowed to detract from complete compliance with QA requirements.

In order to improve both the overall quality and supply of QA/QC personnel on a corporate-wide basis, SWEC undertook a recruiting effort in late 1981 and 1982 aimed at newly graduated engineers and technical personnel coupled with a program of appropriate job training and testing to prepare them to be inspection personnel at all of its construction sites. Recruiting efforts for newly graduated technical personnel were successful and many new trainees completed the training and testing to become qualified QA/QC inspectors. One of SWEC's objectives in this approach was to increase the formal education levels and breadth of technical competence of its inspection personnel and to establish a qualified group of individuals who could be promoted to fill positions of increasing responsibility over a reasonable period of time.

In the implementation of the above-described programs, SWEC developed training modules and support systems to provide for the training, qualification and certification of its inspection personnel. This corporate program was established by SWEC on a generic basis to comply with Regulatory Guide 1.58, Revision 1, and ANSI N 45.2.6. However, during part of 1982 when new inspector trainees were added to SWEC's Nine Mile Point Unit 2 staff, a misunderstanding existed within SWEC's field quality control organization regarding the requirements for certification. More specifically, there was misunderstanding as to whether a trainee could be certified upon achieving qualification, but prior to having completed a minimum three-month period of working experience. In any event, the results of the investigations indicate that the trainees, despite the fact they were fully qualified, had not been formally certified in accordance with approved procedures, i.e. no formal certification document appeared in any of the subject trainee's files covering the period described in the allegations and the trainees did perform inspections without being accompanied by a certified Level II inspector as required by QAD 2.5, Rev. F. The investigations conducted by SWEC and NMPC did indicate that the individuals who conducted such inspections had been adequately trained and qualified under the program for the inspection tasks performed.

The training and qualification of the individuals involved is further evidenced by the fact that all trainees were successfully certified upon completion of experience requirements and full compliance with all procedures was achieved by October 12, 1982. The foregoing notwithstanding, however, SWEC and NMPC acknowledge that although the individuals were qualified, it was improper to use them as inspectors in this manner and have remedied the situation by taking the following corrective actions:

- (a) In September of 1982 NMPC and SWEC both issued specific instructions that only inspectors with proper formal certification would be used to perform inspections.
- (b) SWEC Field Quality Control (FQC) Superintendent directed that education and experience guidelines of QAD 2.5 were mandatory to preclude certification based upon demonstration of proficiency as an acceptable alternate method of certification.
- (c) SWEC has taken steps to encourage timely field certification which has served to expedite the process.
- (d) A comprehensive reinspection program was initiated in September, 1982 using certified personnel not involved in the original inspections. This reinspection effort involved over 2,000 inspections, including 1,200 studwelding and structural welding inspections. The results of reinspection did not disclose any cause for concern for the physical status of the plant.
- (e) NMPC and SWEC conducted an investigation to determine if the problem existed outside of the electrical FQC group. While the investigation uncovered a few minor discrepancies involving activities by inspectors outside of their existing certifications, they were isolated and non-repetitive in nature and have been described in a potential Section 50.55e report that is now being reviewed for reportability. In each case, corrective action has either been taken and completed or is in process.
- (f) The first and second line SWEC QC supervision have been removed from their positions of line responsibility and are being assigned to other duties. They will undergo a minimum probationary period of six months during which time their performance will be thoroughly monitored and evaluated. They will not be reassigned to any inspection duties or supervisory capacity until SWEC and NMPC are satisfied they can and will fulfill all requirements of the job.

To avoid the possible repetition of the use of uncertified trainees as inspectors, the following preventive actions have been initiated:

- (a) All trainees are required to meet education and experience requirements of QAD 2.5, as well as demonstrating proficiency, prior to certification.

- (b) Inspection supervisors are to be responsible for assignment of properly certified inspectors.
- (c) The reviewer of the inspection report has responsibility to verify that performance of the actual inspection was accomplished by a properly certified inspector.
- (d) SWEC activities outlined in (a) through (c) above will be the subject of NMPC QA audit and verification.

The Notice also alleges that:

"Based on the trainees' inspection, Level II inspectors accepted work without reinspecting it. Additionally, Level II inspectors signed inspection reports indicating that they had performed the inspections when, in fact, the only inspections performed were done by trainees."

It is true that inspections were performed by uncertified trainees who were not accompanied by Level II inspectors and that the Level II inspectors who were supervising such trainees indicated acceptance of the inspection by co-signing and initialling the inspection reports. The record also indicates that the Level II inspectors believed that the trainees were qualified to perform the inspection tasks.

NMPC and SWEC recognize that any situation involving false records is a serious matter irrespective of whether it has resulted from intentional falsification. While a specific showing of intent may not be a requisite element of this offense, we wish to point out that there was no intent to conceal unacceptable work or to misrepresent the quality of the construction at Nine Mile Two. We further believe that the following circumstances should be taken into consideration for possible mitigation of the proposed civil penalty:

- (1) The deficiencies noted did not involve inspections which were not performed or an attempt to conceal unacceptable work.
- (2) The reinspection work which was performed demonstrated that the problem did not result in construction deficiencies.
- (3) Except as noted below, neither NMPC nor SWEC management was aware of the existence of this problem prior to the NRC investigation, and the record demonstrates that both NMPC and SWEC management attempted to provide proper direction

regarding the manner in which inspections were to be conducted and documented.

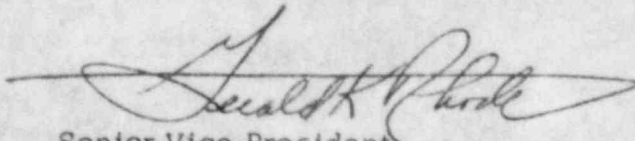
- (4) Our investigation indicated (with the exception described in (e) above) that the problem which resulted in this Notice of Violation was limited to the electrical FQC group and did not reflect an across the board deficiency in NMPC's quality assurance program.

In summary, the investigation revealed that the problems which led to this Notice were the result of misunderstandings in connection with SWEC's FQC procedures, rather than an intentional falsification of documents. There is no evidence that any inspection results were falsified, there were no instances of inspections being reported which were not actually performed, and there was no indication that the signature and initialing process was intended to conceal unacceptable work. The record established by the NRC investigators and confirmed by our subsequent investigation shows that with the exception of the first line supervisor (the lowest level of supervision on the job) and possibly the second level of supervision, neither NMPC nor SWEC management were aware of or condoned any irregular or non-complying procedure. We wish to make clear that while neither NMPC nor SWEC will, under any circumstances, condone such activities, the investigation indicated that the problems which led to this Notice were the result of misunderstandings in connection with SWEC's FQC procedures rather than an intentional falsification of documents.

Based on the foregoing, we respectfully request that consideration be given to reducing the proposed civil penalty to an amount of \$40,000 which is commensurate with the findings of the investigation as a Severity Level III violation. More specifically, we sincerely believe that the facts do not warrant a conclusion of intentional falsification of records and, accordingly, mitigation of the proposed penalty is requested.

To assure that the record is clear, we are not requesting a formal hearing and, other than the request for mitigation set forth herein, are not formally protesting the imposition of the civil penalty proposed in the Notice of Violation.

Respectfully submitted,


Senior Vice President