



50-220

UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

August 18, 1997

Mr. David A. Lochbaum
Union of Concerned Scientists
1616 P Street, NW., Suite 310
Washington, DC 20036-1495

Dear Mr. Lochbaum:

I am responding to your letter to Mr. Singh Bajwa, dated June 12, 1997, expressing concern that, in its letters of April 8 and 25, 1997, Niagara Mohawk Power Corporation (NMPC) did not request a license amendment to revise the reactor coolant chemistry limits in the Technical Specifications (TS) for Nine Mile Point Nuclear Station, Unit No. 1 (NMP1). You are particularly concerned that, in its response to your letter of April 17, 1997, in which you expressed your belief that such an amendment was needed, NMPC replied on April 25, 1997, that "... a change to the TSs is not required." You believe the NRC should be "tremendously concerned" that NMPC "did not of its own volition identify the need for a license amendment and actively resisted the need once it was brought to their attention." You ask whether NMPC properly fulfilled its legal obligations for conforming with federal safety regulations in this matter, and you request that the NRC promptly send an unequivocal message to NMPC that its future decision making must be more conservative.

The NRC staff has reviewed NMPC's April 25, 1997, letter, as well as NMPC's regulatory performance in support of the core shroud cracking issue. For the last seven operating cycles, NMPC has controlled coolant conductivity levels consistent with the assumptions used in the analyses of crack growth rates for vertical core shroud welds. These levels are more conservative than the TS requirements. Therefore, the issue is not whether NMPC would control coolant conductivity at conservative levels, but whether NMPC was non-conservative in its position that administrative control, by way of plant directives and procedures rather than TS, was sufficient.

By way of background, the Commission's TS Improvement Program (see 60 Federal Register 36953, dated July 19, 1995, and 10 CFR 50.36(c)(2)(ii)) has promulgated criteria that must be met if a limiting condition for operation is appropriate for inclusion in TS. In practice, those criteria have supported the view that chemistry control TS are not required to obviate the possibility of an abnormal situation or event giving rise to an immediate threat to public health and safety.¹ Therefore, the improved Standard Technical Specifications resulting from the TS Improvement Program (see e.g., NUREG-1433, Volume 1, Revision 1, "Standard Technical Specifications--General Electric Plants, BWR/4," dated April 1995) which the NRC encourages licensees to follow when making changes to plant-specific TS, excludes activities pertaining to reactor coolant chemistry monitoring and control.

¹ See e.g., letter from Dr. Thomas Murley, NRR Office Director, to Mr. Robert F. Janeczek, Chairman BWR Owners Group, dated May 9, 1988 (the so-called "split report"), in which reactor coolant chemistry is delineated among those TS Limiting Conditions for Operation that may be relocated from TS to another licensee document and controlled pursuant to 10 CFR 50.59.

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D. Lochbaum

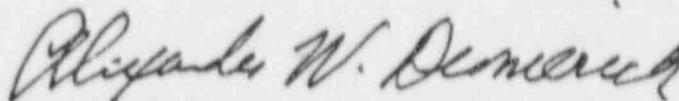
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Notwithstanding these positions, based on Criterion 2 of 10 CFR 50.36(c)(2)(ii), the NRC staff has concluded that the Unit 1 shroud cracking constitutes a special circumstance whereby chemistry control should be considered a process variable or operating restriction having a significant influence upon an initial condition of a transient that could present a challenge to the integrity of a fission product barrier. Therefore, the NRC staff concluded that NMP1 TS should include chemistry requirements consistent with the shroud crack growth analyses.

During a telephone call on May 6, 1997, the NRC staff informed NMPC of this position and of the staff's view that an application for TS amendment would need to be submitted within 60 days of the staff's approval of the core shroud for a limited period of operation. The NRC staff found NMPC to be cooperative in the resolution of this matter during the call and in subsequent actions, which included the prompt filing of a letter on May 7, 1997, stating their intent to file the appropriate amendment within 60 days. The application for amendment, dated July 2, 1997, is currently being reviewed by the NRC staff.

Thank you for your interest in this matter. I trust you will find this letter responsive to your concerns.

Sincerely,



Alexander W. Dromerick, Acting Director
Project Directorate I-1
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation

August 18, 1997

Notwithstanding these positions, based on Criterion 2 of 10 CFR 50.36(c)(2)(ii), the NRC staff has concluded that the Unit 1 shroud cracking constitutes a special circumstance whereby chemistry control should be considered a process variable or operating restriction having a significant influence upon an initial condition of a transient that could present a challenge to the integrity of a fission product barrier. Therefore, the NRC staff concluded that NMP1 TS should include chemistry requirements consistent with the shroud crack growth analyses.

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Sincerely,

ORIGINAL SIGNED BY:

Alexander W. Dromerick, Acting Director
Project Directorate I-1
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation

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**UNION OF
CONCERNED
SCIENTISTS**

June 12, 1997

Mr. S. Singh Bajwa, Acting Director
Project Directorate I-1
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation
United States Nuclear Regulatory Commission
Washington, DC 20555-0001

**SUBJECT: OPERATION OF NINE MILE POINT UNIT 1 WITH CORE SHROUD VERTICAL
CRACKS**

Dear Mr. Bajwa:

Thank you for your letter dated June 9, 1997, responding to UCS's concerns regarding vertical cracks in the core shroud at Niagara Mohawk's Nine Mile Point Unit 1 (NMP-1). Your response, along with its enclosures, fully addressed the concerns we identified to the NRC staff by letters dated April 9 and 17, 1997.

In our April 17th letter, we noted that the justification for continued operation of NMP-1 submitted by Niagara Mohawk by letter dated April 8, 1997, relied on a technical analysis which assumed reactor coolant water chemistry performance significantly better than permitted by the plant's Technical Specifications. We expressed to the NRC staff our considered opinion that the regulations of 10 CFR Part 50 required that Niagara Mohawk either submit a license amendment for reactor coolant water chemistry or re-evaluate core shroud cracking propagation at the higher Technical Specification chemistry values. In your response, you indicated that the NRC's approval for operating NMP-1 with its cracked core shroud was contingent upon Niagara Mohawk maintaining reactor coolant water chemistry within the guidelines of EPRI's TR-103515 and also submitting an application for a license amendment within 60 days. We look forward to reviewing that license amendment.

In its submittal dated April 8, 1997, Niagara Mohawk made no mention of a license amendment for reactor coolant water chemistry. In a letter dated April 25, 1997, responding to our concerns, Niagara Mohawk informed the NRC that it determined that a "...TS [Technical Specification] change is unnecessary." Therefore, Niagara Mohawk did not of its own volition identify the need for a license amendment and actively resisted the need once it was brought to their attention.

While Niagara Mohawk's failure to voluntarily apply for a license amendment can be somewhat excused based on the unprecedented nature of this issue (i.e., no one has ever attempted to operate a nuclear power plant with its core shroud so severely deteriorated), this licensee's inactions should be of tremendous concern to the NRC. Left to its own devices, it appears that Niagara Mohawk would have restarted and operated NMP-1 without seeking a license amendment for reactor coolant water

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June 12, 1997

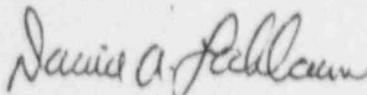
Page 2 of 2

chemistry. The legal obligation for conforming with federal safety regulations is clearly that of Niagara Mohawk, not, as in this case, with concerned local citizens, activists, and public interest groups. Does the NRC feel that Niagara Mohawk properly fulfilled its legal responsibilities in this matter? If so, why?

The NRC often touts the need for conservative decision making by its licensees. The lack of conservative decision making by the control room operators during the April 1994 marsh grass incident at the Salem Generating Station clearly displeased the NRC staff and was cited as a factor in the subsequent imposition of a hefty Civil Penalty. On the other hand, the lack of conservative decision making by Niagara Mohawk during the April 1997 core shroud assessment seemingly fails to upset the NRC.

The NRC has been accused of over-reacting to events at Millstone and Maine Yankee. By acting indifferently to licensee failures, such as in this Niagara Mohawk case, until some watershed event forces a response, the NRC provides the perception of over-reaction. The NRC must react promptly to poor licensee performance and not squirrel away bad points to be unleashed at some future "prudent" time. The NRC is unfair to its licensees when it tolerates their failures until the aggregate prompts full regulatory rage. The NRC does not instill, nor does it deserve, public confidence when it distributes "get out of jail free" cards to recalcitrant licensees so readily. Therefore, we feel it is vitally important that the NRC send an unequivocal message to Niagara Mohawk that its future decision making must be more conservative.

Sincerely,



David A. Lochbaum
Nuclear Safety Engineer

cc: Chairman Shirley Ann Jackson United States Nuclear Regulatory Commission Washington, DC 20555	Commissioner Edward McGaffigan, Jr. United States Nuclear Regulatory Commission Washington, DC 20555
Commissioner Kenneth C. Rogers United States Nuclear Regulatory Commission Washington, DC 20555	Mr. Hubert Bell United States Nuclear Regulatory Commission Washington, DC 20555
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1616 P Street NW Suite 310
Washington, DC 20036



Mr. Samuel J. Collins
Director of the Office of Nuclear Reactor Regulation
United States Nuclear Regulatory Commission
Washington, DC 20555-0001

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