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NRC STAFF PROPOSES \$137,500 FINE FOR ALLEGED VIOLATIONS
OF NRC REQUIREMENTS AT ITS INDIAN POINT UNIT 3

The Nuclear Regulatory Commission has cited the New York Power Authority (NYPA) for three alleged violations of NRC requirements at its Indian Point Unit 3 nuclear power plant at Buchanan, NY, and proposes to fine NYPA \$137,500.

One violation alleges that NYPA officials gave the NRC staff inaccurate information during an April 10, 1992 enforcement conference dealing with inoperable heating elements around pipes carrying a solution of boric acid. The heating is to prevent the boric acid from crystallizing out of solution, as it will as it cools. Such crystals could obstruct the flow or interfere with the operation of the system. The NRC staff proposes a \$100,000 fine for this alleged violation.

The other two alleged violations involve deficiencies in the company's Fitness for Duty (FFD) Program. First, the utility allowed an NRC-licensed reactor operator to regain unescorted access to the plant after having tested positive for illegal drug use, without first confirming that illegal drugs had not been used after he had gone through NYPA's rehabilitation program. In addition, a second NRC-licensed operator apparently had not been periodically re-tested for illegal drugs after completing that rehabilitation program. The NRC staff proposes a \$37,500 fine for the violations of the FFD program.

In a letter notifying the Power Authority of the proposed enforcement action, Thomas T. Martin, Regional Administrator of NRC Region I, said, "...your staff presented information to the NRC, which was not accurate in all material respects, for consideration in determining the appropriate enforcement action associated with the issues discussed at the conference. As a result, the Office of Investigations interviewed members of your staff on May 7, 1992, and subsequently determined that there was no apparent attempt to deceive the NRC and no apparent willfulness with respect to the inaccurate presentations made at the conference. However, the number of inaccuracies presented is of concern, as is the fact that the inaccurate information required substantial additional NRC inspection in order to reverify the NRC's regulatory position."

Mr. Martin added: "While the actual safety significance of the inaccurate information in this case was minimal, the NRC is concerned with the breakdown of the internal communication process within your organization that allowed this failure to occur. In this case your staff was unable to obtain accurate information required to support the information in your presentation. The lack of a formal review process and inadequate documentation practices also contributed to this problem."

Regarding the second and third alleged violations, Mr. Martin said, the NRC was concerned that "The reassignment of this operator to licensed duties before receiving results of the July 29 urine test, as evidence of his abstinence from the drug use which resulted in the earlier suspension of his access, is a violation of 10 CFR 26.27(b)(2) and is a matter of significant concern to the NRC. Licensee management has an obligation to provide reasonable assurance that its employees are not under the influence of illegal drugs or alcohol which in any way adversely affects their ability to safely and competently perform their duties. This obligation includes withholding access from those identified as having used illegal drugs until such time as the licensee has evidence that the employee has abstained from the drug use."

Mr. Martin also said, "The review of this event also revealed that another reactor operator had tested positive for use of an illegal drug on August 14, 1990, and that apparently a follow-up testing program was not developed for, or required of, that operator before or after he was returned to duty. This is of particular concern to the NRC since the lack of a follow-up testing program was identified during the initial inspection of your FFD program, conducted on December 3-6, 1991. Specifically, the Indian Point 3 FFD policy did not include details concerning the minimum frequency and duration of follow-up testing for an individual who had an initial confirmed positive test for drugs. At the time of that inspection, your staff stated that the details of follow-up testing were currently being deliberated by management and would be included in the FFD policy when details were established."

NYPA has 30 days to either pay the proposed fine or to request in writing that part or all of it be withdrawn, giving its reasons for any such request. The Authority also has 30 days to admit or deny the alleged violations, to give reasons for them if admitted, to describe the actions it has taken or plans to take to prevent their happening in the future, and to give the date by which it expects to be in full compliance with NRC requirements.

The State of New York has been informed of this enforcement

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