

March 23, 2004

Mr. James J. Sheppard
President and Chief Executive Officer
STP Nuclear Operating Company
South Texas Project Electric
Generating Station
P. O. Box 289
Wadsworth, TX 77483

SUBJECT: NOTICE OF ENFORCEMENT DISCRETION (NOED) FOR STP NUCLEAR OPERATING COMPANY (STPNOC) REGARDING SOUTH TEXAS PROJECT (STP) UNITS 1 AND 2 - NOED NO. 04-6-001 (TAC NOS. MC2352 AND MC2357)

Dear Mr. Sheppard:

By letter dated March 18, 2004, you requested that the U.S. Nuclear Regulatory Commission (NRC) exercise discretion not to enforce compliance with the actions required in Technical Specifications (TSs) 3/4.7.7, "Control Room Makeup and Cleanup Filtration System" and 3.8.1.1, "A.C. Sources Operating" for STP Units 1 and 2. Your letter documented information previously discussed with the NRC on a telephone conference on March 17, 2004, beginning at 6:30 p.m. Eastern Standard Time (EST). The principal NRC staff members who participated on that telephone conference included Herbert Berkow, Director, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation and Arthur Howell, Director, Division of Reactor Projects, Region IV. You stated that at 12:42 p.m. Central Standard Time (CST) on March 17, 2004, you determined that the units were not in compliance with TS 3.7.7 because TS Surveillance Requirement (SR) 4.7.7.e.3 was not met. Because TS SR 4.7.7.e.3 was not met, STPNOC was specifically making a one-time request for discretion for both STP Units 1 and 2 from taking the actions required by TS 3.7.7 ACTION c for Modes 1 – 4 and ACTION b for Modes 5 – 6. In addition, STPNOC was making a corresponding one-time request for discretion for both STP Units 1 and 2 from taking the actions required by ACTION d of TS 3.8.1.1 because the control room makeup and cleanup filtration system was inoperable due to SR 4.7.7.e.3 not being met.

You requested that an NOED be issued pursuant to the NRC's policy regarding exercise of discretion for an operating facility, set out in Section VII.c. of the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, and be effective for the period 12:42 p.m. CST on March 17, 2004, until such time that the NRC staff could approve a license amendment on an exigent basis to bring the control room makeup and cleanup filtration system back into compliance. You stated that the request satisfied the NOED criterion to avoid unnecessary transients as a result of compliance with the license condition. This letter documents our telephone conversation on March 17, 2004, at 8:46 p.m. EST, when we orally granted this NOED. Your written request is consistent with the discussion and agreements reached during the March 17 teleconference.

On March 6, 2004, STPNOC completed testing to verify inleakage into the Unit 1 control room envelope in accordance with Generic Letter 2003-01, "Control Room Habitability." The testing

method used was the component test method described in Nuclear Energy Institute 99-03, "Control Room Habitability Guidance." This test measures the pressure inside the control room envelope with respect to adjacent areas in a series of locations such that the test points represent the control room boundary. The test is conducted to verify that the pressure within the control room envelope with respect to adjacent areas is positive so that any leakage across the boundary should be outleakage. The test results from the component test method were planned to be compared to the test results from the tracer gas test method to attempt to validate the component test method as a valid test for determining control room envelope inleakage.

The component test method used appears to be more comprehensive than your current test used to satisfy TS SR 4.7.7.3.e to verify that the control room ventilation system can maintain a positive pressure with respect to adjacent areas. The component test measures 100 points in each of 3 train configurations (300 total test points), whereas the TS surveillance procedure measures 24 points in each of 3 train configurations (total of 72 points).

During the performance of the component test, 6 of 300 points tested (total of all 3 train configurations) for Unit 1 and 7 of 300 points tested for Unit 2 did not meet the test acceptance criterion (i.e., 0.125 inches water gauge (in wg) relative pressure). However, all points tested were positive with respect to adjacent areas. These points were not points measured by the TS surveillance procedure. The control room ventilation system is designed to maintain the control room at 0.125 in wg positive pressure relative to adjacent areas when aligned in the pressurization and cleanup filtration mode of operation. The test points less than 0.125 in wg demonstrate a degraded condition and non-compliance with TS. You have stated that this condition will be corrected under Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), Appendix B corrective action process. You propose that the apparent cause of the failed test points is an air balancing issue and that air balancing will be part of the corrective action to resolve the degraded condition.

In addition, STPNOC submitted an exigent license amendment request, by letter dated March 18, 2004, that proposes changes to bring the control room makeup and cleanup filtration system back into compliance.

The function of the control room ventilation system in its emergency mode lineup is to maintain a positive pressure within the envelope with respect to adjacent areas in order to minimize unfiltered inleakage. This assures that the radiological dose to the control room operators remains within the limits of General Design Criteria (GDC) 19 of 10 CFR Part 50, Appendix A.

You have stated that the control room envelope pressure remains positive with respect to adjacent areas under the current degraded condition. In the current condition, no increase in unfiltered inleakage should occur since the differential pressure remains positive within the control room envelope with respect to adjacent areas. The STP Unit 1 and Unit 2 control room ventilation systems maintain their design function to minimize inleakage with a reduced differential pressure margin at some locations.

While the control room makeup and cleanup filtration system is not operable, you will have potassium iodide (KI) available to provide radiological protection to control room operators as a compensatory measure. In addition, self-contained breathing apparatus (SCBA) equipment is

also available as a compensatory measure. The emergency plan procedures require monitoring of control room personnel radiation exposure so that appropriate protective measures will be taken by the operators during accident conditions.

The control room envelope for each unit remains at a positive pressure with respect to adjacent areas in the current degraded condition. The control room pressure meets acceptance criteria (i.e., 0.125 in wg positive) in all locations tested with the exception of a limited number of points described above. The relative pressure across these locations remains positive relative to adjacent areas. Although not meeting TS acceptance criteria, the positive relative pressure condition still assures that any leakage across these boundary locations would be outleakage. Therefore, the functionality of the control room ventilation system is maintained with the degraded relative pressure condition for portions of the envelope. STPNOC has stated that the analyzed radiological dose to the control room operator remains unaffected by this condition. Therefore, the consequences of this condition remain consistent with the licensing basis analyses.

Although the Unit 1 and 2 control rooms have a degraded relative pressure condition for portions of both control room boundaries, the staff finds that there is reasonable assurance that both units currently meet and that they will continue to meet the operator dose limits of GDC 19 of 10 CFR Part 50, Appendix A until approval of a license amendment to bring the control room makeup and cleanup filtration system back into compliance. SR 4.7.7.e.3 is utilized to limit unfiltered inleakage into the control room and to provide assurance that GDC 19 will continue to be met (i.e., the unfiltered inleakage will not increase beyond that assumed in the design analyses) between surveillances. The staff believes that reasonable assurance is provided based upon the following: 1) both control rooms measured only a limited number of degraded pressure points (6 out of 300 in Unit 1 and 7 out of 300 in Unit 2), all points are at least at 0.05 inches wg positive pressure with respect to adjacent areas, 3) the compensatory measures (utilizing KI and SCBA) available to control room operators to mitigate the radiological consequences of accident, and 4) the duration of the noncompliance is expected to be short (per the NRC Inspection Manual, Part 9900, the NRC staff should issue a licensee amendment to remedy the noncompliance within four weeks of the issuance of the NOED).

The STP Units 1 and 2 probabilistic risk assessment (PRA) models the cooling function of the control room ventilation system. This function maintains environmental conditions that ensure the continued operation of safeguards relay racks, solid state protection, etc. and the control room environment. The pressurization function of the control room ventilation system is not modeled in the PRA. Although not meeting the TS acceptance criterion, there is a positive relative pressure condition at all points and the control room makeup and cleanup filtration system remains functional. If the licensee were forced to comply with the TS, they would have commenced a reactor shutdown while the staff concurrently processed an emergency TS change request. Based on the known facts, this request would have been quickly approved and would have permitted an immediate reactor startup. Given this sequence of events, the staff concluded that the increased risk associated with reactor mode transitions was greater than the risk associated with continued operation, because of the postulated short duration of the shutdown. Therefore, the staff concluded that the risk of continued operation for the duration of the NOED is no greater than that associated with compliance with the TS action statement.

On the basis of the staff's evaluation of your request and your supporting documentation and justification, the staff concluded that an NOED is warranted because the staff is clearly satisfied that this action involves minimal or no safety impact, is consistent with the enforcement policy and staff guidance, and has no adverse impact on public health and safety. Therefore, it is our intention to exercise discretion not to enforce compliance with TSs 3/4.7.7 and 3.8.1.1 for the period from March 17, 2004 (12:42 p.m. CST) until issuance of a license amendment in response to your exigent amendment request dated March 18, 2004. The staff plans to complete its review and issue the license amendment within 4 weeks of the date of this letter.

As stated in the enforcement policy, action will be taken, to the extent that violations were involved, for the root cause that led to the noncompliance for which this NOED was necessary.

Sincerely,

/RA/

Herbert N. Berkow, Director
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-498 and 50-499

cc: See next page

On the basis of the staff's evaluation of your request and your supporting documentation and justification, the staff concluded that an NOED is warranted because the staff is clearly satisfied that this action involves minimal or no safety impact, is consistent with the enforcement policy and staff guidance, and has no adverse impact on public health and safety. Therefore, it is our intention to exercise discretion not to enforce compliance with TSs 3/4.7.7 and 3.8.1.1 for the period from March 17, 2004 (12:42 p.m. CST) until issuance of a license amendment in response to your exigent amendment request dated March 18, 2004. The staff plans to complete its review and issue the license amendment within 4 weeks of the date of this letter.

As stated in the enforcement policy, action will be taken, to the extent that violations were involved, for the root cause that led to the noncompliance for which this NOED was necessary.

Sincerely,

/RA/

Herbert N. Berkow, Director
 Project Directorate IV
 Division of Licensing Project Management
 Office of Nuclear Reactor Regulation

Docket Nos. 50-498 and 50-499

cc: See next page

ACCESSION NO: ML040830160

* Via e-mail

OFFICE	PDIV-1/PM	PDIV-1/LA	PDIV-1/SC	DSSA/SPSB/BC
NAME	MWebb	DBaxley	RGramm	MTschiltz*
DATE	3/23/04	3/23/04	3/23/04	3/22/2004

OFFICE	DIPM/IROB/BC	RIV/DRP/D	PDIV/D
NAME	CShulten for WBeckner	AHowell*	HBerkow
DATE	3/23/04	3/22/2004	3/23/04

OFFICIAL RECORD COPY

South Texas Project, Units 1 & 2

cc:

Senior Resident Inspector
U.S. Nuclear Regulatory Commission
P. O. Box 910
Bay City, TX 77414

A. Ramirez/C. M. Canady
City of Austin
Electric Utility Department
721 Barton Springs Road
Austin, TX 78704

Mr. L. K. Blaylock
Mr. W. C. Gunst
City Public Service Board
P. O. Box 1771
San Antonio, TX 78296

Mr. C. A. Johnson/A. C. Bakken
AEP Texas Central Company
P. O. Box 289
Mail Code: N5022
Wadsworth, TX 77483

INPO
Records Center
700 Galleria Parkway
Atlanta, GA 30339-3064

Regional Administrator, Region IV
U.S. Nuclear Regulatory Commission
611 Ryan Plaza Drive, Suite 400
Arlington, TX 76011

D. G. Tees/R. L. Balcom
Texas Genco, LP
P. O. Box 1700
Houston, TX 77251

Judge, Matagorda County
Matagorda County Courthouse
1700 Seventh Street
Bay City, TX 77414

A. H. Gutterman, Esq.
Morgan, Lewis & Bockius
1111 Pennsylvania Avenue, NW
Washington, DC 20004

Mr. T. J. Jordan, Vice President
Engineering & Technical Services
STP Nuclear Operating Company
P. O. Box 289
Wadsworth, TX 77483

S. M. Head, Manager, Licensing
Nuclear Quality & Licensing Department
STP Nuclear Operating Company
P. O. Box 289, Mail Code: N5014
Wadsworth, TX 77483

Environmental and Natural Resources
Policy Director
P. O. Box 12428
Austin, TX 78711-3189

Jon C. Wood
Matthews & Branscomb
112 East Pecan, Suite 1100
San Antonio, TX 78205

Arthur C. Tate, Director
Division of Compliance & Inspection
Bureau of Radiation Control
Texas Department of Health
1100 West 49th Street
Austin, TX 78756

Brian Almon
Public Utility Commission
William B. Travis Building
P. O. Box 13326
1701 North Congress Avenue
Austin, TX 78701-3326

May 2003

South Texas Project, Units 1 & 2

-2-

Susan M. Jablonski
Office of Permitting, Remediation
and Registration
Texas Commission on
Environmental Quality
MC-122
P.O. Box 13087
Austin, TX 78711-3087

Mr. Terry Parks, Chief Inspector
Texas Department of Licensing
and Regulation
Boiler Division
P. O. Box 12157
Austin, TX 78711

Mr. Ted Enos
4200 South Hulen
Suite 630
Ft. Worth, Texas 76109

DISTRIBUTION FOR NOTICE OF ENFORCEMENT DISCRETION FOR STP UNITS 1 AND 2

Dated: March 23, 2004

DISTRIBUTION:

PUBLIC

PDIV-1 r/f

RidsNrrOd (JDyer)

RidsNrrAdpt (BSheron)

RidsNrrDlpm (LMarsh/ELeeds)

RidsNrrDlpmLpdiv (HBerkow)

RidsNrrDlpmLpdiv1 (RGramm)

RidsNrrPMBMoroney

RidsDssaSpsb (MTschiltz)

RidsNrrDipmlrob (WBeckner)

RidsOeMailCenter (FCongel)

RidsRgn4MailCenter (BMallett, BJohnson)

AHowell

JCruz

NOED

OEWEB

RTadessee

RidsNrrPMMWebb

RidsNrrLADBaxley

RidsAcrcAcnwMailCenter

RidsOgcRp