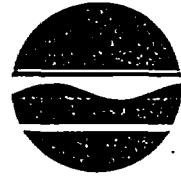


**New York State Department of Environmental Conservation
Division of Environmental Permits, Region 8**

6274 East Avon-Lima Road, Avon, New York 14414-9519

Phone: (585) 226-2466 • FAX: (585) 226-2830

Website: www.dec.state.ny.us



Erin M. Crotty
Commissioner

October 10, 2003

Mr. Joseph Widay
Vice President
Rochester Gas and Electric Corporation
89 East Ave.
Rochester, N.Y. 14649-0001

Re: Application ID # 8-5434-00010/00010
License Renewal of the R.E. Ginna Nuclear Power Plant
Section 401 Clean Water Act, Water Quality Certification
Ontario (T), Wayne (C)

Dear Mr. Widay:

Enclosed is the 401 Water Quality Certification issued for the proposed federal license renewal of the subject facility from 2009 through 2029. In accordance with the schedule in the Clean Water Act, the 401 WQC was issued within one year of the receipt of the application from RG&E, on October 7, 2003.

Please read the permit carefully and familiarize yourself with all conditions upon which the permit is contingent. Please contact me within 30 days of the certification issuance date if you identify any condition(s) that can not be met in full or if you have any questions.

We look forward to continuing to coordinate with RG&E and the NRC on the federal NEPA process for the facility renewal.

Sincerely,

Kimberly A. Merchant
Environmental Analyst 1

Enclosures: 401 Water Quality Certification Permit

A092

cc: R. Schaaf , NRC
M. Calaban, Bureau of Habitat, NYSDEC, C.O.
W. Pearsall, Fisheries, NYSDEC, Region 8
J. Nasca, Environmental Permits, NYSDEC, C.O.
F. Ricotta, Regional Engineer, NYSDEC, Region 8
D. Persson, Division of Water, NYSDEC, Region 8
W. Little, Legal Division, NYSDEC, C.O.
J. Zeh, Bureau of Hazardous Waste & Radiation Mgt.
B. Youngberg, Radiation Section, NYSDEC, C.O.
D. Rollins, Regional Water Engineer, Division of Water, NYSDEC, R8
L. Vail, Batelle National Laboratory
A. Peterson, NYSERTA
G. Wrobel, RG&E
J. Prill, RG&E
V. Barr, NYSDOS
S. Ressler, NYSDOS
U.S. Fish and Wildlife Service
U.S. Environmental Protection Agency



PERMIT
Under the Environmental Conservation Law (ECL)

Permittee and Facility Information

Permit Issued To:

ROCHESTER GAS & ELECTRIC CORP.

89 EAST AVE

ROCHESTER, NY 14649

Facility:

ROCHESTER GAS GINNA NUCLEAR POWER
PLT

1503 LAKE RD

ONTARIO, NY 14519

Facility Location: in ONTARIO in WAYNE COUNTY

Facility Principal Reference Point: NYTM-E: 312.669 NYTM-N: 4794.248

Project Location: 1503 Lake Road, Ontario, NY

Authorized Activity: This 401 Water Quality Certification certifies that the renewal of the federal license of the Ginna Nuclear Power Plant by the U.S. Nuclear Regulatory Commission (NRC), to operate for an additional twenty-year period, will not contravene water quality standards. The Department will reevaluate the facility on a five-year basis for renewal of the SPDES permit.

Permit Authorizations

Water Quality Certification - Under Section 401 - Clean Water Act

Permit ID 8-5434-00010/00010

New Permit

Effective Date: 10/7/2003

Expiration Date: 9/18/2029

NYSDEC Approval

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

Permit Administrator: STUART M FOX, Deputy Chief Permit Administrator

Address:

NYSDEC HEADQUARTERS

625 BROADWAY

ALBANY, NY 12233

Authorized Signature:

Stuart M. Fox

Date 10 / 7 / 2003

Permit Components

NATURAL RESOURCE PERMIT CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS



NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

**NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following
Permits: WATER QUALITY CERTIFICATION**

- 1. Water Quality Certification** The NYS Department of Environmental Conservation hereby certifies that the subject project will not contravene effluent limitations or other limitations or standards under Sections 301, 302, 303, 306 and 307 of the Clean Water Act of 1977 (PL 95-217) provided that all of the conditions listed herein are met.
- 2. Conformance With Plans** All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or his agent as part of the permit application. Such approved plans were prepared by RG&E (including the Environmental Report and the plans/studies in the SPDES permit)..
- 3. Coverage under 401 Water Quality Certification** This Water Quality Certification covers normal operation of the facility. It does not cover ongoing maintenance activities that result in discharges into the Waters of United States that trigger Section 404 Clean Water Act individual permits by the U.S. Army Corps of Engineers. Any proposed work on the shoreline must be covered by the appropriate Department permits which may include: Article 15, Protection of Waters; Article 34, Coastal Erosion; or Article 15, Water Quality Certification.
- 4. Best Technology Available (BTA) Determination** A BTA determination will be conducted, pursuant to the SPDES permit, by the Department to determine if the facility meets the regulatory criteria to minimize adverse environmental impacts to aquatic species and whether any mitigation is required. Upon evaluation by the Department of the submitted studies, the Department will determine whether additional BTA measures will be needed, for which Mitigation Plans will need to be developed, submitted, and completed in consultation with Department staff.
- 5. State May Order Removal or Alteration of Work** If future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department of Environmental Conservation it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the owner may be ordered by the department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable and flood capacity of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.
- 6. State Not Liable for Damage** The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.
- 7. Permittee Responsible For Other Approvals** Granting of this permit does not relieve the applicant of the responsibility of obtaining any other permission, consent or approval from the U.S. Army Corps of Engineers, U.S. Coast Guard, New York State Office of General Services or local government which



may be required.

8. Precautions Against Contamination of Waters All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.

9. Even Dredging Any material dredged in the conduct of the work herein permitted shall be removed evenly, without leaving large refuse piles, ridges across the bed of a waterway or floodplain or deep holes that may have a tendency to cause damage to navigable channels or to the banks of a waterway.

10. No Interference With Navigation There shall be no unreasonable interference with navigation by the work herein authorized.

11. State May Require Site Restoration If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.

GENERAL CONDITIONS - Apply to ALL Authorized Permits:

1. Facility Inspection by The Department The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

2. Relationship of this Permit to Other Department Orders and Determinations Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

3. Applications For Permit Renewals, Modifications or Transfers The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator
NYSDEC REGION 8 HEADQUARTERS



6274 EAST AVON-LIMA RD
AVON, NY 14414

4. Submission of Renewal Application The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Water Quality Certification.

5. Permit Modifications, Suspensions and Revocations by the Department The Department reserves the right to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

6. Permit Transfer Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittees agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-



way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

Item E: Haulage Permits for Transporting Spoil The permittee and his contractor (if any) shall contact appropriate State and local highway officials to determine if haulage permits are required for transporting the spoil to the disposal site.

Item F: Conformance with SPDES Permit RG&E is required to conduct and submit studies pertaining to impingement, entrainment, and thermal shock. The study requirements and time frames are defined in the SPDES permit (NY0000493, 8-5434-00010/00003).

Item G: Compliance with Coastal Management Program The proposed activity complies with New York State's approved coastal management program or to the maximum extent practicable with the applicable and approved local waterfront revitalization program as required by Executive Law, Article 42, and will be conducted in a manner consistent with such program.

