

February 16, 2001

Mr. James R. Morris
Site General Manager
Monticello Nuclear Generating Plant
Nuclear Management Company, LLC
2807 West County Road 75
Monticello, MN 55362-9637

SUBJECT: MONTICELLO NUCLEAR GENERATING PLANT - NOTICE OF
CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING
LICENSE, PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION AND
OPPORTUNITY FOR A HEARING (TAC NO. MB1113)

Dear Mr. Morris:

Enclosed is a copy of the subject notice that relates to Nuclear Management Company's (NMC's) application for amendment dated February 1, 2001. This request is being treated as an exigent amendment in accordance with 10 CFR 50.91(a)(6)(i)(A).

The proposed amendment would remove the inservice inspection requirements of Section XI of the American Society of Mechanical Engineers *Boiler and Pressure Vessel Code* (the Code) from the Monticello Technical Specifications (TSs) and relocate them to a licensee-controlled program. On January 30, 2001, NMC orally requested a Notification of Enforcement Discretion (NOED) to allow continued operation without compliance with TS 3.15.A.1 until the TS amendment is issued. The NRC staff issued the NOED orally that same day. NMC provided the followup written request for the NOED on February 1, 2001.

The notice has been forwarded to the Office of the Federal Register for publication.

Sincerely,

/RA/

Carl F. Lyon, Project Manager, Section 1
Project Directorate III
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-263

Enclosure: Notice

cc w/encl: See next page

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ACCESSION NO. ML010470182

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Monticello Nuclear Generating Plant

cc:

J. E. Silberg, Esquire
Shaw, Pittman, Potts and Trowbridge
2300 N Street, N. W.
Washington, DC 20037

U.S. Nuclear Regulatory Commission
Resident Inspector's Office
2807 W. County Road 75
Monticello, MN 55362

Site Licensing Manager
Monticello Nuclear Generating Plant
Nuclear Management Company, LLC
2807 West County Road 75
Monticello, MN 55362-9637

Robert Nelson, President
Minnesota Environmental Control
Citizens Association (MECCA)
1051 South McKnight Road
St. Paul, MN 55119

Commissioner
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155-4194

Regional Administrator, Region III
U.S. Nuclear Regulatory Commission
801 Warrenville Road
Lisle, IL 60532-4351

Commissioner
Minnesota Department of Health
717 Delaware Street, S. E.
Minneapolis, MN 55440

Douglas M. Gruber, Auditor/Treasurer
Wright County Government Center
10 NW Second Street
Buffalo, MN 55313

Commissioner
Minnesota Department of Commerce
121 Seventh Place East
Suite 200
St. Paul, MN 55101-2145

Adonis A. Neblett
Assistant Attorney General
Office of the Attorney General
445 Minnesota Street
Suite 900
St. Paul, MN 55101-2127

Michael D. Wadley
Chief Nuclear Officer
Nuclear Management Company, LLC
700 First Street
Hudson, WI 54016

Nuclear Asset Manager
Xcel Energy, Inc.
414 Nicollet Mall
Minneapolis, MN 55401

UNITED STATES NUCLEAR REGULATORY COMMISSION

NUCLEAR MANAGEMENT COMPANY, LLC

DOCKET NO. 50-263

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO
FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-22, issued to Nuclear Management Company, LLC (NMC, or the licensee), for operation of the Monticello Nuclear Generating Plant located in Wright County, Minnesota.

The proposed amendment would remove the inservice inspection (ISI) requirements of Section XI of the American Society of Mechanical Engineers (ASME) *Boiler and Pressure Vessel Code* (the Code) from the Monticello Technical Specifications (TSs) and relocate them to a licensee-controlled program.

NMC is requesting that this license amendment request be processed in an exigent manner in accordance with 10 CFR 50.91(a)(6) because the plant is currently operating under a Notice of Enforcement Discretion (NOED) with respect to TS 3.15.A.1. In accordance with NRC procedures described in NRC Inspection Manual, Part 9900, Operations - Notices of Enforcement Discretion, dated December 12, 2000, NMC applied for this license amendment within 2 working days after the NRC staff issued the NOED on January 30, 2001. The NRC staff will process this amendment in an exigent manner, in order to minimize the time the plant is operated under the NOED.

In its application, NMC explained why it could not have foreseen the need for this amendment. Compliance with the current wording of TS 3.15.A requires full compliance with the Code as a condition for considering Section XI-required equipment operable. Application of TS 3.15.A requires declaring equipment inoperable and following the specified limiting conditions for operation when a Code non-compliance is discovered. This may require an unnecessary plant shutdown when the equipment is fully operable in all other respects. This exigent situation occurred because the potential for TS 3.15.A.1 to cause unnecessary operational evolutions was not previously recognized. Code nonconformances were recently identified during the course of inspections conducted by NRC staff. TS 3.15.A.1 directs that affected components be declared inoperable without regard for actual impact on operability. The need for a license amendment that would allow such nonconformances to be evaluated for their affect on equipment operability, thus preventing unnecessary operational evolutions, was subsequently identified. As a result, the need for a license amendment was determined to be unavoidable and not created by a failure to make a timely application for a license amendment.

The staff has determined that the licensee used its best efforts to make a timely application for the proposed changes and that exigent circumstances do exist and were not the result of any intentional delay on the part of the licensee.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this

means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The requested changes are administrative in nature in that they relocate ISI requirements from the TS to the Monticello ISI program. The requested changes will not revise previous commitments to 10 CFR 50.55a or ASME Code Section XI ISI requirements.

The proposed changes do not involve a change to the configuration or method of operation of any plant equipment that is used to mitigate the consequences of an accident, nor do they affect any assumptions or conditions in any of the accident analyses. Since the accident analyses remain bounding, their radiological consequences are not adversely affected.

Therefore, the probability or consequences of an accident previously evaluated are not affected.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The requested changes are administrative in nature in that they relocate ISI requirements from the TS to the Monticello ISI program. The requested changes will not revise previous commitments to 10 CFR 50.55a or ASME Code Section XI ISI requirements.

The proposed changes do not involve a change to the configuration or method of operation of any plant equipment that is used to mitigate the consequences of an accident, nor do they affect any assumptions or conditions in any of the accident analyses. Accordingly, no new failure modes have been defined for any plant system or component important to safety nor has any new limiting single failure been identified as a result of the proposed changes.

Therefore the possibility of a new or different kind of accident from any accident previously evaluated is not created.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

The requested changes are administrative in nature in that they relocate ISI requirements from the TS to the Monticello ISI program. The requested changes will not revise previous commitments to 10 CFR 50.55a or ASME Code Section XI ISI requirements. Program requirements will ensure that Code requirements are met.

Therefore, a significant reduction in the margin of safety is not involved.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the FEDERAL REGISTER a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page

number of this FEDERAL REGISTER notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 19, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the

nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Jay Silberg, Esq., at Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated February 1, 2001, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland, this 8th day of February 2001.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Carl F. Lyon, Project Manager, Section 1
Project Directorate III
Division of Licensing Project Management
Office of Nuclear Reactor Regulation