UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
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ARLINGTON, TEXAS 76011-8064

March 1, 2002

EA-01-231

David L. Wilson, Vice President of
Nuclear Energy
Nebraska Public Power District
P.O. Box 98
Brownville, Nebraska 68321

SUBJECT: FINAL SIGNIFICANCE DETERMINATION FOR TWO WHITE FINDINGS AND NOTICE OF VIOLATION (NRC INSPECTION REPORT 50-298/01-09)

Dear Mr. Wilson:

The purpose of this letter is to provide you with the final results of our significance determination regarding three preliminary White findings identified in the subject inspection report. Our preliminary findings were discussed with your staff during an exit briefing conducted on September 6, 2001. The inspection findings were assessed using the significance determination process (SDP) and were preliminarily characterized as White (i.e., an issue with increased importance to safety which may require additional NRC inspection and potentially other NRC action). These potential White findings involved your failure to: (1) implement planning standard 10 CFR 50.47(b)(5), resulting in an untimely notification to state and local response organizations following declaration of an Alert on June 25, 2001; (2) meet emergency planning standard 10 CFR 50.47(b)(2), resulting in untimely activation of the emergency response facilities on June 25, 2001; and (3) meet emergency planning standard 10 CFR 50.47(b)(8), resulting in an inadequate emergency operations facility (EOF) to support emergency response since September 14, 1991.

At your request, a Regulatory Conference was held on December 18, 2001, to further discuss your views on these issues. During the conference, your staff described your assessment of the significance of the findings, your evaluation of each of the inspection report concerns, and your position on whether violations of NRC requirements occurred.

The first potential White finding involved Nebraska Public Power District's (NPPD) failure to implement planning standard 10 CFR 50.47(b)(5), resulting in an untimely notification to state and local response organizations following declaration of an Alert on June 25, 2001. During the Regulatory Conference, NPPD presented its position that the Alert declaration was an overclassification, since the fire was extinguished before the Alert was declared and there was not an actual or potential loss of safety system function. NPPD asserted that, based on the actual plant conditions, the appropriate classification should have been a Notification of Unusual Event (NOUE). As a result, it was NPPD's position that the significance of the finding should be evaluated as if there had been a NOUE declaration. Evaluation of the finding's

significance using NRC Manual Chapter 0609, Appendix B, “Emergency Preparedness Significance Determination Process,” would then result in a Green finding.

After considering the information developed during the inspection and the information you provided at the conference, the NRC has concluded that this inspection finding is appropriately characterized as White. The NRC determined that the emergency director classified the event based on the information available at the time. Once the Alert declaration was made, the emergency director was required to implement the actions of the Emergency Plan for an Alert classification, including notifying state and local response organizations in a timely manner. The decision blocks in the SDP are based on the actual emergency classification level declared at the time of the event. As a result, the NRC concluded that the Alert declaration was the appropriate decision block to use in the SDP to determine the significance of this inspection finding.

The second potential White finding involved NPPD’s failure to meet emergency planning standard 10 CFR 50.47(b)(2), resulting in the untimely activation of its emergency response facilities on June 25, 2001. During the Regulatory Conference, NPPD asserted that the untimely activation of the emergency response facilities on June 25, 2001, constituted a failure by NPPD to implement the emergency planning standard during an actual event, not a failure to meet the emergency planning standard. NPPD stated that its emergency plan and implementing procedures were adequate, that the technical support center and operations support center were activated within approximately 1 hour, and that the EOF was functional in approximately 1 hour. NPPD also stated that the EOF was staffed and ready for activation 80 minutes after the Alert classification, but was not activated until 97 minutes after the Alert because the turnover of the emergency director from the control room to the EOF was delayed as the control room shift supervisor addressed an issue with the plant. If the inspection finding was considered to be a failure to implement the planning standard during an actual event, the results of the SDP would be a Green finding.

After considering the information developed during the inspection, and the information you provided at the conference, the NRC has concluded that this inspection finding did involve a failure to meet the emergency planning standard and is appropriately characterized as White. In arriving at this decision, the NRC evaluated NPPD’s ability to perform steps needed to satisfactorily accomplish the timely augmentation of emergency response facilities. The NRC considered NPPD’s ability to notify plant personnel of the need to activate the facilities and the ability of plant personnel to respond to the facilities in a timely manner.

Following the declaration of an Alert on June 25, 2001, NPPD failed to perform timely augmentation of the emergency response facilities. The EOF was not activated until 97 minutes after the Alert declaration. Even if NPPD’s explanation for this delay is accepted, it was 80 minutes before the facility was ready to be activated. The operations support center was activated 71 minutes after the Alert declaration, and the technical support center was activated 73 minutes after the Alert declaration. Cooper Nuclear Station Emergency Plan, Section 5.2, “Onsite Emergency Organization,” states, in part, that the emergency response facilities will be activated within approximately one hour following the declaration of an Alert or higher classification.

In addition to the delays in activation experienced on June 25, 2001, the NRC determined that NPPD has had recurring problems in activating its automated notification system in a timely manner. As documented in NRC Inspection Report 50-298/01-09, NPPD's quality assurance organization had previously identified control room operator performance problems associated with activating the automated notification system. Quality Assurance Audit Report 01-01 documented that the failure to set off the automated notification system in a timely and appropriate manner had been a recurring drill comment or weakness. From January to December of 2000, operators in the control room simulator failed to activate the emergency response personnel pagers within 15 minutes in 10 out of 25 simulator exercises. Quality assurance personnel noted that corrective actions had not been taken to address this performance problem. Quality assurance personnel performed an additional assessment from April 10-12, 2001, to review the adequacy of the corrective actions taken in response to the issues identified in Quality Assurance Audit Report 01-01. Quality Assurance Report S403-0101, "Emergency Preparedness," determined that the failure to activate the automated notification system in a timely and appropriate manner had not been resolved. Based on this finding, and others, the quality assurance department used a formal escalation process to increase senior management attention to emergency preparedness problems that were not being appropriately resolved.

The NRC also determined that NPPD had recurring problems in manning the emergency response facilities in a timely manner. In a letter to the NRC dated December 14, 2001, NPPD provided emergency drill performance data for six drills conducted between February 2000 and March 2001. The purpose of these drills was to determine how long it would take to establish minimum required staffing for the emergency response facilities. Emergency response personnel contacted during the drill provided an estimated time that it would take to respond to their designated emergency response facility. NPPD's success criteria for the drill was to have all of the critical positions manned within 60 minutes of individuals being contacted. A review of the drill data revealed that the 60-minute success criteria was met in five of the six drills. In one drill, conducted on July 31, 2000, the time estimate to fill the last position was 64 minutes. However, the NRC determined that NPPD's success criteria did not ensure that emergency response facilities would be manned within approximately 60 minutes of the declaration of an emergency. Given that NPPD's success criteria for activating the emergency callout system was 15 minutes, the estimated time for emergency response personnel to arrive at their designated facility should have been 45 minutes or less, in order to staff the emergency response facilities within approximately 60 minutes of declaring an emergency. Using a drill success criteria of 45 minutes, NPPD failed to staff the emergency response facilities in a timely manner in three of the six drills, representing a 50 percent failure rate.

Notwithstanding the existence of adequate emergency plan procedures, the NRC concluded that recurring problems in activating the automated notification system and staffing the emergency response facilities in a timely manner, in conjunction with the untimely activation of the emergency response facilities during an actual emergency on June 25, 2001, represented a failure to meet the planning standard.

You have 10 business days from the date of this letter to appeal the staff's determination of significance for the two identified White findings discussed above. Such appeals will be considered to have merit if they meet the criteria given in NRC Inspection Manual Chapter 0609, Attachment 2.

For each of the two White findings discussed above, we also determined that violations of NRC requirements occurred. These violations, involving the requirements of 10 CFR 50.54(q) and emergency planning standard 10 CFR 50.47(b)(2), are cited in the attached Notice of Violation (Notice). In accordance with the NRC Enforcement Policy, the violations in the Notice are considered escalated enforcement action because they are associated with White findings.

The third potential White finding involved NPPD's failure to meet emergency planning standard 10 CFR 50.47(b)(8), resulting in an inadequate EOF to support emergency response since September 14, 1991. During the Regulatory Conference, NPPD asserted that the Cooper Nuclear Station emergency response facilities complied with regulatory commitments, that its procedures were adequate for relocation to the alternate EOF facility, and that the EOF was functional for the event on June 25, 2001. NPPD stated that its emergency plan and EOF met planning standard 10 CFR 50.47(b)(8). In letters to the NRC dated December 14, 2001, and January 4, 2002, NPPD provided additional information that included procedures for activating the EOF, transferring the command and control function from the primary EOF to the alternate EOF, and conducting an EOF unavailability study with data from 1993 through 2001. Upon further review of the NRC inspection results, and the review of the additional information provided by NPPD, the NRC has concluded that NPPD met planning standard 10 CFR 50.47(b)(8).

However, the NRC determined that a violation of 10 CFR 50.54(q) did occur. NRC Inspection Report 50-298/01-09 provided a description of the backup power supply to the EOF. In 1986 the licensee performed Design Change 85-45, "Emergency Feed to the Emergency Operations Facility." This modification was performed to increase the reliability of the EOF and provide a backup source of power during a loss of offsite power event, since this condition would result in a loss of the normal power supply. This design change supplied backup power to the facility from the Division 2 essential switchgear. This design change originally placed no restrictions on using the backup power supply to the EOF for any operating mode. In February 1992, System Operating Procedure 2.2.90, "12.5 kV System," was revised. This revision restricted the backup power source to supply only the EOF communication system when in operating Modes 1, 2, and 3, due to power limitations on the electrical switchgear. As a result, the EOF filtered ventilation system, and other equipment, would not be available in the event of a loss of offsite power during operating Modes 1, 2, and 3.

10 CFR 50.54(q) states, in part, that a nuclear power reactor licensee may make changes to its emergency plans without Commission approval only if the changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E of 10 CFR Part 50. Contrary to the above, in February 1992, the licensee reduced the effectiveness of its emergency plan without Commission approval when it revised System Operating Procedure 2.2.90, "12.5 kV System," to restrict the backup power source to supply only the EOF communication system when in operating Modes 1, 2, and 3. As a result, the EOF filtered ventilation system, and other equipment, would not be available in the event of a loss of offsite power during operating Modes 1, 2, and 3. This violation is being treated as a noncited violation (50-298/0109-03), consistent with Section VI.A of the NRC Enforcement Policy. This finding was entered into the licensee's corrective action process in Notification 10097255.

This issue was determined to have a credible impact on safety because the ability to perform required emergency response functions from the EOF could be impacted during accidents involving a loss of offsite power, resulting in a delay in actions necessary to protect the public. This noncited violation was characterized using the SDP as having very low safety significance because it did not result in the failure of the licensee to meet an emergency planning standard contained in 10 CFR 50.47(b).

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

The two White findings discussed above place plant performance in the Degraded Cornerstone Column of the Action Matrix (Manual Chapter 0305). In addition, because these findings, in combination with previous White findings, will result in the emergency preparedness cornerstone being degraded for five consecutive quarters, Cooper Nuclear Station will enter the Repetitive Degraded Cornerstone Column of the Action Matrix on April 1, 2002. We will use the NRC Action Matrix to determine the most appropriate NRC response for these findings. We will notify you by separate correspondence of that determination.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at http://www.nrc.gov/reading-rm/adams.html (the Public Electronic Reading Room).

Sincerely,

/RA/

Ellis W. Merschoff
Regional Administrator

Docket: 50-298
License: DPR-46

Enclosure: As stated

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Nebraska Public Power District
Cooper Nuclear Station

Docket: 50-298
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EA-01-231

During an NRC inspection conducted on June 25 through September 6, 2001, two violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violations are listed below:

A. 10 CFR 50.54(q) states, in part, that a licensee authorized to possess and operate a nuclear power reactor shall follow and maintain in effect emergency plans which meet the standards in 50.47(b). Cooper Nuclear Station Emergency Plan, Section 6.2.4, "Offsite Authorities and Support Agencies," states, in part, that initial notifications to responsible state and local governmental agencies will be completed within 15 minutes of the declaration of an emergency.

Contrary to the above, on June 25, 2001, the licensee failed to notify the state and local governmental agencies within 15 minutes after declaring an Alert. Specifically, notifications to state and local governmental agencies did not occur until 5:20 a.m., 25 minutes after the Alert declaration.

This violation is associated with a White significance determination process finding (50-298/0109-01).

B. 10 CFR 50.54(q) states, in part, that a licensee authorized to possess and operate a nuclear power reactor shall follow and maintain in effect emergency plans which meet the standards in 50.47(b). 10 CFR 50.47(b)(2) requires, in part, that the onsite emergency response plan provide for timely augmentation of response capabilities. Cooper Nuclear Station Emergency Plan, Section 5.2, "Onsite Emergency Organization," states, in part, that the emergency response facilities will be activated within approximately one hour following the declaration of an Alert or higher classification.

Contrary to the above, NPPD's onsite emergency plan did not provide for timely augmentation of response capabilities, in that NPPD experienced recurring problems in activating the automated notification system and staffing the emergency response facilities in a timely manner. Specifically, from January to December of 2000, operators in the control room simulator failed to activate the emergency response personnel pagers within 15 minutes in 10 out of 25 simulator exercises. From February 2000 to March 2001, NPPD failed to demonstrate the ability to staff the emergency response facilities in a timely manner in three of six drills. In addition, following the declaration of an Alert on June 25, 2001, NPPD failed to perform timely augmentation of the emergency response facilities. Specifically, following the declaration of the Alert on June 25, 2001, the EOF did not meet the requirements for activation until 80 minutes following the Alert declaration, the operations support center was not activated until 71 minutes following the Alert declaration, and the technical support center was not activated until 73 minutes following the Alert declaration.

This violation is associated with a White significance determination process finding (50-298/0109-02).

Pursuant to the provisions of 10 CFR 2.201, Nebraska Public Power District is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region IV, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include: (1) the reason for the violation or, if contested, the basis for disputing the violation or severity level, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. ADAMS is accessible from the NRC Web site at the Public Electronic Reading Room, http://www.nrc.gov/reading-rm/adams.html. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

Dated this 1st day of March 2002