



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064**

May 6, 2002

IA-01-057

Terry A. Borgan
[HOME ADDRESS DELETED
UNDER 10 CFR 2.790]

SUBJECT: NOTICE OF VIOLATION AND EXPIRATION OF LICENSE

Dear Mr. Borgan:

The Nuclear Regulatory Commission (NRC) received a letter dated November 30, 2001, from Nebraska Public Power District (NPPD) informing us that NPPD no longer has a need to maintain your operating license for the Cooper Nuclear Station facility. We also received a letter dated October 10, 2001, from NPPD containing information about your confirmed positive test for alcohol. A copy of each letter is enclosed. We note, however, that the enclosure to NPPD's October 10, 2001 letter is not being provided because it contains information that pertains to a separate investigation conducted by NPPD.

In accordance with 10 CFR 55.55(a), the determination by your facility licensee that you no longer need to maintain your license has caused License SOP-43516-1 to expire as of November 30, 2001. In addition, the following violation is being issued on your docket:

10 CFR 55.53(j) states, in part, that the licensee shall not perform activities authorized by a license issued under 10 CFR Part 55 while under the influence of alcohol. "Under the influence" is defined in 10 CFR 55.53(j) to mean that the "licensee exceeded, as evidenced by a confirmed positive test, the lower of the cutoff levels for drugs or alcohol contained in 10 CFR Part 26, Appendix A, of this chapter, or as established by the facility licensee."

Contrary to the above, on August 27, 2001, Terry A. Borgan, an NRC-licensed senior reactor operator at Cooper Nuclear Station, performed activities authorized by his license while under the influence of alcohol. Specifically, Mr. Borgan assumed station Shift Supervisor duties on that date before being subjected to a breath alcohol test which showed that he was under the influence of alcohol. Mr. Borgan's breath alcohol screen and subsequent blood alcohol levels were confirmed through "for cause" testing to be between .057 and .065, a level that exceeded the cutoff level for alcohol (.04) contained in 10 CFR Part 26, Appendix A, and that established by the facility licensee.

This is a Severity Level III violation (Supplement I).

The purpose of the Commission's Fitness-for-Duty requirements is to provide reasonable assurance that nuclear power plant personnel work in an environment that is free of drugs and alcohol and the effects of the use of these substances. This violation is categorized as a

Severity Level III violation in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, because the use of alcohol such that the operator exceeds the cutoff limits specified in 10 CFR Part 26, Appendix A, or in the licensee's fitness-for-duty program by licensed operators, is a significant regulatory concern that undermines the special trust and confidence that the NRC places in licensed operators. Because your license has expired, you are not required to respond to the Notice of Violation at this time **unless you contest the violation**. Should you contest the Notice of Violation, a response is required within 30 days of the date of this letter addressing the specific basis for disputing the violation. This response should be sent to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011 and marked, "Open by Addressee Only."

The purpose of this letter is to make clear to you the consequences of your violation of NRC requirements governing fitness-for-duty as a licensed operator, in accordance with 10 CFR Part 55. If you reapply for an operating license, you will need to satisfy not only the requirements of 10 CFR 55.31, but also those of 10 CFR 2.201, by addressing the reasons for the violation and the actions you have taken to prevent recurrence in order to ensure your ability and willingness to carry out the special trust and confidence placed in you as a licensed operator and to abide by all fitness-for-duty and other license requirements and conditions.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, enforcement actions are 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). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). A copy of this letter, without the enclosures and with your address removed, will be made available to the Public unless you provide a sufficient basis to withdraw this violation within the 30 days specified above for a response to this Notice of Violation.

Should you have any questions concerning this action, please contact Anthony T. Gody of my staff. Mr. Gody can be reached at either the address listed above or telephone number (817) 860-8159.

Sincerely,

/RA/

Ellis W. Merschoff
Regional Administrator

Docket No. 55-40407
License No. SOP-43516-1

Enclosures:

1. Nebraska Public Power District Letter NLS2001108
2. Nebraska Public Power District Letter NLS2001089

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T. Gody, OB

D. Trimble, IQPB

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