

December 2, 1987

Docket No. 50-298

Mr. George A. Trevors, Division
Manager - Nuclear Support
Nebraska Public Power District
P. O. Box 499
Columbus, Nebraska 68601

Dear Mr. Trevors:

SUBJECT: COOPER NUCLEAR STATION - SCHEDULAR EXEMPTION
FOR PROPERTY INSURANCE REQUIREMENTS

The Commission has issued the enclosed Exemption from certain requirements of Section 50.54(w)(1) to 10 CFR Part 50 for the Cooper Nuclear Station. This action responds to your request dated October 5, 1987. The Exemption is valid from December 5, 1987 through December 4, 1988.

We have determined that the Exemption is necessary and authorized by law and should therefore be granted.

The Exemption is being forwarded to the Office of the Federal Register for publication. The related Notice of Environmental Assessment and Finding of No Significant Impact was published in the Federal Register on December 2, 1987. A copy is enclosed for your information.

Sincerely,

101

Jose A. Calvo, Director
Project Directorate - IV
Division of Reactor Projects - III,
IV, V and Special Projects

Enclosure:

1. Exemption
2. Environmental Assessment

cc w/enclosures:
See next page

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Mr. George A. Trevors
Nebraska Public Power District

Cooper Nuclear Station

CC:
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Cooper Nuclear Station
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of
NEBRASKA PUBLIC POWER DISTRICT
(Cooper Nuclear Station)

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Docket No. 50-298

EXEMPTION

I.

Nebraska Public Power District (the licensee) is the holder of Facility Operating License No. DPR-46 that authorizes operation of the Cooper Nuclear Station (the facility) at a steady state reactor power level not in excess of 2381 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Nemaha County, Nebraska. The license provides, among other things, that the facility is subject to all rules, regulations and orders of the Commission now or hereafter in effect.

II.

Section 50.54(w)(1) of 10 CFR Part 50 was recently amended to require that the licensees of nuclear power reactors maintain a minimum insurance coverage for operating nuclear power plants in the sum of \$1.06 billion. The new requirements became effective on October 5, 1987 and the regulations provide for a 60 day grace period in which a licensee could comply with the requirements.

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By letter dated October 2, 1987, the licensee, by its attorney, requested a schedular exemption from the requirements of amended 10 CFR 50.54(w) until a satisfactory final order from a state or Federal court has been obtained and the licensee is able to obtain the necessary insurance policies from Nuclear Electric Insurance Limited (NEIL). Currently, the licensee maintains \$585 million of property insurance obtained through American Nuclear Insurers and the Mutual Atomic Energy Reinsurance Pool. The only source of additional insurance to comply with the Commission's new regulations is NEIL. However, NEIL is a mutual company and under the provisions of the Nebraska Constitution, as interpreted by the Nebraska Supreme Court, there is considerable doubt as to whether the licensee may lawfully purchase insurance from NEIL. In an effort to satisfy the limitations of Nebraska law, effective on March 29, 1985, NEIL amended its charter and by-laws, together with a proposal to issue appropriate policy endorsements. Based upon NEIL's actions, the licensee submitted an application to NEIL for decontamination and property insurance. By letter from NEIL dated June 28, 1985, the licensee was advised NEIL would not issue a policy to the licensee until the licensee had secured a declaratory judgment from the Nebraska Supreme Court that non-voting membership in NEIL and the issuance of policies with appropriate endorsements would not violate the Nebraska Constitution. On July 1, 1985, the licensee, jointly with the Omaha Public Power District (the Districts), commenced an action for a declaratory judgment in the District Court of Lancaster County, Nebraska. The District Court issued its decision on December 1, 1986 in which it declined to grant a declaratory judgment. The Districts have appealed the ruling of the District Court to the Nebraska Supreme Court where the matter currently is pending. In

the event the Nebraska Supreme Court ultimately refuses to grant a declaratory judgment that the Districts may, consistent with Nebraska law, purchase insurance from NEIL, the Districts assert they plan to commence an action for a declaratory judgment in the United States District Court in Nebraska and ask the Federal court to declare that the Commission's new regulations preempt any provisions of the Nebraska Constitution.

III.

The NRC staff has reviewed the licensee's request for a schedular exemption from the amended requirements of 10 CFR 50.54(w)(1). The licensee has asserted, and the Commission has found, 52 FR 28966, that it is unable to provide equivalent protection in lieu of purchasing the NEIL coverage. NEIL coverage cannot be secured until a satisfactory final order from either a state or Federal court is obtained. For these reasons, the staff finds that the licensee has shown good cause for the requested schedular exemption from the requirements of amended 10 CFR 50.54(w)(1). However, the staff does not believe the exemption should be for an indefinite period. Accordingly, the requested schedular exemption is acceptable for a period of one year from December 5, 1987. If an appropriate state or Federal court order has not been obtained by such date, the staff would give consideration to a new application for an exemption.

IV.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(1), this exemption is authorized by law, will not present an undue

risk to the public health and safety and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(v), are justifying the exemption.

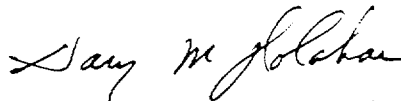
The licensee has been making, and continues to make, a good faith effort to secure the necessary state or Federal court order. Upon securing the necessary court order, the licensee intends to purchase the insurance policy from NEIL which would put it in compliance with the new requirements of 10 CFR 50.54 (w)(1).

Accordingly, the Commission hereby grants an exemption, as described in Section III above, from Section 50.54(w)(1) of 10 CFR Part 50 to extend the date for acquiring the full amount of property insurance required by the Commission's regulations to no later than one year from December 5, 1987.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this Exemption will have no significant impact on the environment (52 FR 45881).

This exemption is effective upon issuance.

FOR THE NUCLEAR REGULATORY COMMISSION



Gary Holahan, Acting Director
Division of Reactor Projects - III,
IV, V and Special Projects
Office of Nuclear Reactor Regulation

Dated at Bethesda, Maryland
this December 2, 1987

UNITED STATES NUCLEAR REGULATORY COMMISSIONNEBRASKA PUBLIC POWER DISTRICTDOCKET NO. 50-298ENVIRONMENTAL ASSESSMENT ANDFINDING OF NO SIGNIFICANT IMPACT

The U.S. Nuclear Regulatory Commission (NRC/the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(1) to the Nebraska Public Power District (the licensee) for the Cooper Nuclear Station located in Nemaha County, Nebraska.

ENVIRONMENTAL ASSESSMENT

Identification of Proposed Action: The licensee would be exempted from the requirement of Paragraph 54(w)(1) of 10 CFR Part 50 from December 5, 1987 through December 4, 1988. 10 CFR 50.54(w)(1) requires that licensees have, within 60 days of the effective date of the Rule, property damage insurance in the amount of at least \$1.06 billion to provide financial security for stabilizing and decontaminating their licensed reactors in the event of an accident.

The Need for the Proposed Action: The licensee is a political subdivision of the State of Nebraska and, as such, is prohibited by State law from becoming a subscriber to the stock or any portion of interest of any corporation or association. The licensee is therefore prohibited from becoming a member of Nuclear Electric Insurer's Limited (NEIL). As a result, the licensee is unable to obtain the \$1.06 billion, of property insurance as required by the Rule. The District is seeking a declaratory judgement from the Nebraska Supreme Court which will enable it to become a NEIL member. Until such time, the maximum amount of property insurance available to the licensee is the

\$585 million available from the American Nuclear Insurers and the Mutual Reinsurance Pool. The requested exemption will grant the licensee additional time to obtain the necessary ruling.

Environmental Impacts of the Proposed Action: The proposed action affects only insurance requirements and will have no effect on nuclear safety or on plant effluents. Therefore, the Commission has determined that there is no environmental impact associated with the proposed action.

Alternative Use of Resources: This action involves no use of resources.

Agencies Persons Consulted: The NRC staff did not consult other agencies or persons.

FINDING OF NO SIGNIFICANT IMPACT

The Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the licensee's application dated October 5, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Local Public Document Room in the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Dated at Bethesda, Maryland this 27th day of November, 1987.

FOR THE NUCLEAR REGULATORY COMMISSION

Walter A. Paulson

Walter A. Paulson, Acting Director
Project Directorate - IV
Division of Reactor Projects - III,
IV, V and Special Projects
Office of Nuclear Reactor Regulation