UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

September 30, 1988

Docket No. 50-482

Mr. Bart D. Withers
President and Chief Executive Officer
Wolf Creek Nuclear Operating Corporation
P. O. Box 411
Burlington, Kansas 66839

Dear Mr. Withers:

SUBJECT: WOLF CREEK NUCLEAR GENERATING STATION - TEMPORARY EXEMPTION FROM THE SCHEDULAR REQUIREMENTS OF THE PROPERTY INSURANCE RULE EFFECTIVE OCTOBER 4, 1988 (10 CFR 50.54(w)(5)(i))

The Commission has issued the enclosed temporary exemption from the schedular requirements of the property insurance rule effective October 4, 1988 (10 CFR 50.54(w)(5)(i)) for the Wolf Creek Nuclear Generating Station. This part of the rule requires licensees to obtain insurance policies that prioritize insurance proceeds for stabilization and decontamination after an accident and provide for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose.

The Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be completed by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Commission, pursuant to 10 CFR 50.12(a), hereby grants a temporary exemption from the schedular requirements of 10 CFR 50.54(w)(5)(i). This temporary exemption is valid until April 1, 1989 or until such time as action on this rulemaking is completed.

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In granting the exemption, the staff has determined that this action is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest.

This exemption is being filed with the Office of the Federal Register for publication.

Sincerely,

/S/

Paul W. O'Connor, Project Manager
Project Directorate - IV
Division of Reactor Projects - III,
IV, V and Special Projects

Enclosure:
As stated

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Division of Reactor Projects - III,
IV, V and Special Projects

Enclosure:
As stated

cc w/enclosure:
See next page

cc:
Jay Silberg, Esq.
Shaw, Pittman, Potts & Trowbridge
1800 M Street, NW
Washington, D.C. 20036

Chris R. Rogers, P.E.
Manager, Electric Department
Public Service Commission
P. O. Box 360
Jefferson City, Missouri 65102

Regional Administrator, Region III
U.S. Nuclear Regulatory Commission
799 Roosevelt Road
Glen Ellyn, Illinois 60137

Senior Resident Inspector/Wolf Creek
c/o U. S. Nuclear Regulatory Commission
P. O. Box 311
Burlington, Kansas 66839

Mr. Robert Elliot, Chief Engineer
Utilities Division
Kansas Corporation Commission
4th Floor - State Office Building
Topeka, Kansas 66612-1571

Mr. Gerald Allen
Public Health Physicist
Bureau of Air Quality & Radiation Control
Division of Environment
Kansas Department of Health and Environment
Forbes Field Building 321
Topeka, Kansas 66620

Mr. Gary Boyer, Plant Manager
Wolf Creek Nuclear Operating Corp.
P. O. Box 411
Burlington, Kansas 66839

Regional Administrator, Region IV
U.S. Nuclear Regulatory Commission
Office of Executive Director for Operations
611 Ryan Plaza Drive, Suite 1000
Arlington, Texas 76011

Mr. Otto Maynard, Manager Licensing
Wolf Creek Nuclear Operating Corp.
P. O. Box 411
Burlington, Kansas 66839

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of	)	
	)	
WOLF CREEK NUCLEAR OPERATING CORPORATION	)	Docket No. 50-482
	)	
(Wolf Creek Nuclear Generating Station)	)	
	)	
	)	

EXEMPTION

I.

Wolf Creek Nuclear Operating Corporation (the licensee) is the holder of Facility Operating License No. NPF-42, which authorizes operation of the Wolf Creek Nuclear Generating Station. The license provides, among other things, that it is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of a pressurized water reactor at the licensee's site located in Coffey County, Kansas.

II.

On August 5, 1987, the NRC published in the FEDERAL REGISTER a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required

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in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be completed by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

III.

Pursuant to 10 CFR 50.12, "The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of [10 CFR Part 50], which are ... Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security." Further, Section 50.12(a)(2) provides inter alia, "The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever ... (v) The exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation."

Despite a good faith effort to comply with the provisions of the rule, insurers providing property damage insurance for nuclear power facilities and licensees insured by such insurers have not been able to comply with the regulation and the exemption provides only temporary relief from the applicable regulation.

As noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of Section 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage is already prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

IV.

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12(a), that (1) a temporary exemption as described in Section III. 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 and (2) in this case, special circumstances are present as described in Section III. Therefore, the Commission hereby grants the following exemption:

Wolf Creek Nuclear Operating Corporation is exempt from the requirements of 10 CFR 50.54(w)(5)(i) until the completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking the licensee shall comply with the provisions of such rule.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant environmental impact (53 FR 38392).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 30th day of September , 1988.

FOR THE NUCLEAR REGULATORY COMMISSION

Gary M. Holahan

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