



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005**

July 30, 2002

EA-02-123

R. T. Ridenoure
Division Manager - Nuclear Operations
Omaha Public Power District
Fort Calhoun Station FC-2-4 Adm.
P.O. Box 550
Fort Calhoun, Nebraska 68023-0550

**SUBJECT: FINAL SIGNIFICANCE DETERMINATION FOR A WHITE FINDING AND
NOTICE OF VIOLATION
(INSPECTION REPORT 50-285/02-08; FORT CALHOUN STATION)**

Dear Mr. Ridenoure:

The purpose of this letter is to provide you with the final results of our significance determination for the preliminary White finding identified in the subject inspection report. The inspection finding was assessed using the significance determination process and was preliminarily characterized as White, a finding with low to moderate increased importance to safety, which may require additional NRC inspections. This preliminary White finding involved the failure to prevent radiation levels from exceeding the Department of Transportation limit of 200 millirem per hour at any point on the external surface of a radioactive waste shipment package.

In a telephone conversation with Ms. Gail M. Good of NRC, Region IV, on July 8, 2002, Mr. Eric Matzke of your staff indicated that Omaha Public Power District did not contest the characterization of the risk significance of this finding and that you declined your opportunity to discuss this issue in a Regulatory Conference.

After considering the information developed during the inspection, the NRC has concluded that the inspection finding is appropriately characterized as White, an issue with low to moderate increased importance to safety, which may require additional NRC inspections.

You have 30 calendar days from the date of this letter to appeal the staff's determination of significance for the identified White finding. Such appeals will be considered to have merit only if they meet the criteria given in NRC Inspection Manual Chapter 0609, Attachment 2.

The NRC has also determined that the failure to prevent radiation levels from exceeding 200 millirem per hour at any point on the external surface of a package is a violation of 10 CFR Part 20 and Department of Transportation requirements, as cited in the attached Notice of Violation. The circumstances surrounding the violation are described in detail in the subject inspection report. In accordance with the NRC Enforcement Policy, NUREG-1600, this Notice

of Violation is considered escalated enforcement action because it is associated with a White finding.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice of Violation when preparing your response. Because plant performance for this issue has been determined to be in the regulatory response band, we will use the NRC Action Matrix to determine the most appropriate NRC response for this event. 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: 50-285
License: DPR-40

Enclosure: Notice of Violation

cc w/Enclosure:
Mark T. Frans, Manager
Nuclear Licensing
Omaha Public Power District
Fort Calhoun Station FC-2-4 Adm.
P.O. Box 550
Fort Calhoun, Nebraska 68023-0550

James W. Chase, Division Manager
Nuclear Assessments
Fort Calhoun Station
P.O. Box 550
Fort Calhoun, Nebraska 68023-0550

David J. Bannister, Manager - Fort Calhoun Station
Omaha Public Power District
Fort Calhoun Station FC-1-1 Plant
P.O. Box 550
Fort Calhoun, Nebraska 68023-0550

Omaha Public Power District

-3-

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Chairman
Washington County Board of Supervisors
Washington County Courthouse
P.O. Box 466
Blair, Nebraska 68008

Sue Semerena, Section Administrator
Nebraska Health and Human Services System
Division of Public Health Assurance
Consumer Services Section
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Lincoln, Nebraska 68509-5007

Lawrence E. Nanney, Director
Division of Radiological Health
L&C Annex, Third Floor
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NOTICE OF VIOLATION

Omaha Public Power District
Fort Calhoun Station

Docket No. 50-285
License No. DPR-40
EA-02-123

During an NRC inspection conducted between May 13-17, 2002, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 71.5 requires each licensee who transports licensed materials outside the site of usage or on public highways to comply with the requirements in 49 CFR Parts 170 through 189.

49 CFR 173.441(a) requires that each package of Class 7 (radioactive) material offered for transportation be designed and prepared for shipment, so that under conditions normally incident to transportation, radiation levels do not exceed 200 millirem per hour at any point on the external surface of the package.

Contrary to the above, on April 24, 2002, the licensee shipped dry active waste in a sea-land container under conditions normally incident to transportation, and dose rates on the exterior surface exceeded 200 millirem per hour.

This violation is associated with a White significance determination process finding.

Pursuant to the provisions of 10 CFR 2.201, Omaha 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 of Violation (Notice), within 30 days of the date of the letter transmitting this 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 significance, (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 previously 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, United States 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 <http://www.nrc.gov/reading->

[rm/adams.html](#) (the Public Electronic Reading Room). 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.

In accordance with 10 CFR 19.11, you are required to post this Notice within two working days.

Dated this 30th day of July 2002