

December 13, 2002

EA-02-068

Mr. M. Nazar  
Site Vice-President  
Prairie Island Nuclear Generating Plant  
Nuclear Management Company, LLC  
1717 Wakonade Drive East  
Welch, MN 55089

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -  
\$60,000 (NRC INVESTIGATION CASE NO. 3-2001-017)  
PRAIRIE ISLAND NUCLEAR GENERATING PLANT

Dear Mr. Nazar:

This letter refers to the investigation conducted at Prairie Island Nuclear Generating Plant by the NRC Office of Investigations (OI) into the completeness and accuracy of information provided by your staff to the NRC from April 13 to 16, 2001, regarding Prairie Island's request for a Notice of Enforcement Discretion (NOED). The NOED was granted orally on April 16, 2001, and extended the allowed outage time for the repair and testing of the Unit 2 D6 emergency diesel generator (EDG). The NRC issued the written NOED on April 18, 2001. The investigation also included a review of the removal of a document from a group of documents that had been requested by the NRC special inspection team on May 14-15, 2001. The team was onsite to review the circumstances surrounding the decision on May 9, 2001, to declare both the D5 and D6 Unit 2 EDGs inoperable because of a possible incompatibility between the lubricating oil and the fuel oil.

On August 2, 2002, a predecisional enforcement conference was conducted in the Region III office with you and other members of the Prairie Island Nuclear Generating Plant to discuss the apparent violations, their significance, their root causes, and corrective actions. On September 17, 2002, the predecisional enforcement conference was continued with you, your legal counsel, and a member of your staff who was unavailable on August 2, 2002.

Based on the information developed during the investigation and the information provided during the conference, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described below. The violation involved the failure to provide to the NRC, during the April 13 and 16, 2001, NOED telephone conferences, and in letters to the NRC dated April 13 and 16, 2001, complete and accurate information regarding the potential for oil incompatibility to be a cause for the problem with the D6 EDG and for the D5 EDG to be similarly susceptible. This information was available to your staff. An industry notification and an NRC Information Notice were issued in 1996 based on a Calvert Cliffs event similar to the EDG problem at Prairie Island. Additionally, the EDG vendor provided information on the oil incompatibility issue on several occasions, including a meeting held in France that a

member of your staff attended. The root cause of the violation appears to be that your staff incorrectly determined that the above information was irrelevant or inaccurate.

The NRC takes the issuance of an NOED seriously and expects licensees to do the same, including conducting a thorough review of the issue and providing the NRC with all pertinent information so that we can make an informed decision. Your failure to provide complete and accurate information affected the NRC's ability to perform its regulatory function in that the NRC granted the NOED with an incomplete understanding of the potential safety impact to the plant. With complete information, the NRC may have had substantial further inquiry and considered additional compensatory actions before making a regulatory decision or may not have issued the NOED. Therefore, this violation has been categorized in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, May 1, 2000, at Severity Level III.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$60,000 is considered for a Severity Level III violation. Because your facility has not been the subject of escalated enforcement actions within the last two years, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. Credit for corrective action was warranted including: (1) developing an improved process for reviewing external operating events; (2) formalizing the NOED request process, including management involvement; (3) informing the Prairie Island staff to provide the NRC all requested documents and not attempt to determine the documents' relevance or accuracy; and (4) improving the engineering organization's training, the responsible engineer turnover process, and communication standards.

Although the NRC recognizes that application of the civil penalty assessment process described in Section VI.C.2 of the Enforcement Policy would fully mitigate the civil penalty in this case, the NRC is exercising discretion in accordance with Section VII.A.1.(c) of the Enforcement Policy and is proposing a civil penalty. This exercise of discretion reflects our added concern in this case because of Prairie Island's particularly poor performance leading up to and during the EDG degradation, during the request for an NOED, and during the time period the NOED was in effect. Prairie Island engineering staff failed to identify prior to the NOED request, or during the time it was in effect, that the high crankcase pressure may potentially have been the result of lube oil/fuel oil incompatibility even though information was readily available that should have indicated that this was a possible root cause of the problems being seen. Had this potential root cause been considered, it would have brought into question the impact on the other susceptible EDG (D5), which, in turn, would have had a direct bearing on the request for the NOED and our decision to grant it. The previous system engineer, who was involved with the issue and attended one of the NOED calls, was knowledgeable of the Calvert Cliffs event, but did not provide information to other Prairie Island staff or management on the similarities of the two events or that the lube oil/fuel oil incompatibility could be a possible root cause. In addition, during a conference call between Prairie Island staff and manufacturer representatives on April 16, 2001, the manufacturer representatives discussed the lube oil/fuel oil incompatibility as a probable cause of the EDG cylinder degradation, but this information was discounted by Prairie Island staff.

Therefore, to emphasize the importance of good performance, conservative decision making, and accurate and complete information, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the base amount of \$60,000 for the Severity Level III violation.

The NRC has concluded that information regarding the reason for the violation, and the corrective actions taken and planned to correct the violation and prevent recurrence, is already adequately addressed as discussed above. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

The second apparent violation involved the removal of a document from a group of documents about to be given to the NRC special inspection team on or around May 17, 2001. The NRC has reviewed the circumstances surrounding this issue and determined that, since the document in question was provided to the NRC within the requested time, this did not constitute a violation by the Nuclear Management Company. However, a violation is being issued to the individual who removed the document.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if you choose to provide one, 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). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

*/RA/*

J. E. Dyer  
Regional Administrator

Docket Nos. 050-00282; 050-00306

License Nos. DPR-42; DPR-60

Enclosures: 1. Notice of Violation and Proposed  
Imposition of Civil Penalty

2. NUREG/BR-0254 Payment Methods (Licensee only)

DOCUMENT NAME: G:\eics\02-068 SL III CP Prairie Island NOED.drp.oe.wpd

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DATE	12/12/02		12/12/02		12/13/02		12/09/02		12/13/02		12/13/02	

**OFFICIAL RECORD COPY**

Via e-mail from J. Dixon-Herrity.

M. Nazar

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cc w/encl 1: Plant Manager, Prairie Island  
R. Anderson, Executive Vice President  
and Chief Nuclear Officer  
Site Licensing Manager  
Nuclear Asset Manager  
Commissioner, Minnesota  
Department of Health  
State Liaison Officer, State of Wisconsin  
Tribal Council, Prairie Island Indian Community  
J. Silberg, Esquire  
Shawn, Pittman, Potts, and Trowbridge  
P. Marker, Office of the Attorney General  
Administrator, Goodhue County Courthouse  
Commissioner, Minnesota Department  
of Commerce

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NOTICE OF VIOLATION  
AND  
PROPOSED IMPOSITION OF CIVIL PENALTY

Nuclear Management Company, LLC  
Prairie Island Nuclear Generating Plant

Docket Nos. 050-00282; 050-00306  
License Nos. DPR-42; DPR-60  
EA-02-068

During an NRC investigation completed on February 28, 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 NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violation and associated civil penalty are set forth below:

10 CFR 50.9(a) requires, in part, that information provided to the Commission by a licensee be complete and accurate in all material respects.

Contrary to the above, during telephone discussions with the NRC on April 13 and 16, 2001, and in letters to the NRC dated April 13 and April 16, 2001, information provided by the Licensee regarding a request for a Notice of Enforcement Discretion (NOED) was not complete in all material respects. Specifically, information available to the Licensee indicating that an incompatibility between the fuel oil and the lubricating oil was a possible root cause of the increase in crankcase pressure in the Unit 2 D6 emergency diesel generator engine was not provided to the NRC, nor was information that the Unit 2 D5 emergency diesel generator was similarly susceptible. Incompatibility between the fuel and lubricating oils was later confirmed to be the root cause of the increase in crankcase pressure in the D6 emergency diesel generator during the surveillance test on April 9, 2001, and to exist in the D5 emergency diesel generator. This incomplete information was material, in that, the NRC relied on the information to grant the requested NOED.

This is a Severity Level III violation (Supplement VII).  
Civil Penalty - \$60,000

The NRC has concluded that information regarding the reason for the violation and the corrective actions taken and planned to correct the violation and prevent recurrence, was adequately addressed at the predecisional enforcement conference and in the letter transmitting this Notice. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region III, 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).

The Licensee may pay the civil penalty proposed above or the cumulative amount of the civil penalties if more than one civil penalty is proposed, in accordance with NUREG/BR-0254 and by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, a statement indicating when and by what method payment was made, or may protest imposition

of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within 30 days of the date of this Notice of Violation and Proposed Imposition of Civil Penalty, an order imposing the civil penalty will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violation listed in this Notice, in whole or in part, (2) demonstrate extenuating circumstances, (3) show error in this Notice, or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the factors addressed in Section VI.C.2 of the Enforcement Policy should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty due which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The response noted above (Reply to Notice of Violation, statement as to payment of civil penalty, and Answer to a Notice of Violation) should be addressed to: Frank Congel, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region III, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

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

Dated this 13<sup>th</sup> day of December 2002.