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NLS2004021
February 26, 2004

U.S. Nuclear Regulatory Commission
Attention: Document Control Desk
Washington, D.C. 20555-0001

Subject: Contesting of Finding in Inspection Report 50-298/03-07
Cooper Nuclear Station, NRC Docket No. 50-298, DPR-46

References:
1. Letter to Nebraska Public Power District from Kris Kennedy (U.S. Nuclear Regulatory Commission) dated January 27, 2004 "Cooper Nuclear Station – NRC Integrated Inspection Report 50-298/03-07"

2. Letter to U.S, Nuclear Regulatory Commission from John Christensen (Nebraska Public Power District) dated December 19, 2003, "Licensee Event Report No. 2003-006", NLS20030127.

The purpose of this letter is to contest a specific finding in the referenced inspection report as discussed in Section 4OA2.1. The inspection report states that the finding is:

> "...associated with the failure to evaluate and take corrective actions for a fire on the Booneville 345 kV transmission line. This led to a similar fire on a transmission tower between the main transformers and the main generator disconnect switches, which induced a plant transient".

The Booneville 345 kV transmission line fire occurred in 1997. The "similar" fire in the referenced inspection report occurred in 2003. The Nuclear Regulatory Commission (NRC) concluded that a thorough evaluation of the 1997 fire could have prevented the fire in 2003. Attachment 1 provides further detail on the event.

Cooper Nuclear Station (CNS) concludes that linking a recent event, which was investigated under the scope of the current corrective action program that is dissimilar to the scope that existed six years ago, is inappropriate in several ways. CNS reviewed NRC guidance regarding the timeliness of inspection findings and the use of crosscutting aspects and believes that guidance is instructive in this matter.

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NRC practice is to link contemporary events to demonstrate ineffective corrective action. For instance, Section 4.2.1c of the NRC Enforcement Manual states that a repetitive violation is:

> "A violation that could reasonably have been prevented by the licensee's corrective action for a previous violation or a previously docketed noncompliance finding that occurred within the 2 years prior to the date of the violation".

Further, the NRC states in the referenced inspection report that the finding is not a violation of NRC requirements since the electrical distribution system affected by the fire is not safety-related. The use of the term "finding" to cite a utility for a non-violation performance deficiency came into practice by the NRC with the advent of the Reactor Oversight Process in 1999.

In addition, Inspector Manual Chapter (IMC) 0612 Section 06.03.c (4) states that:

> "The cross-cutting aspect of a finding is not considered a separate cross-cutting finding but rather is documented as a contributing cause of the finding, as appropriate".

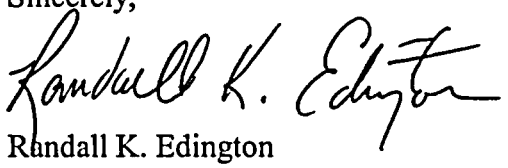
In other words, a utility cannot be cited for a cross-cutting finding in and of itself.

The NRC did not cite CNS for an Appendix B Criterion XVI violation for the 1997 event, properly so, and the term, "finding", referring to a non-violation performance deficiency, was not in use in that context at that time. Therefore, per guidance in the Enforcement Manual regarding repetitive violations and the guidance in IMC 0612, the station should not be cited for a cross-cutting finding in 2003.

In conclusion, CNS believes that linking a non-violation performance deficiency six years ago as evidence of a cross-cutting finding and performance deficiency in 2003 is not in accordance with NRC guidance.

Should you have any questions concerning this matter, please contact Mr. Paul Fleming at (402) 825-2774.

Sincerely,



Randall K. Edington
Vice President- Nuclear and
Chief Nuclear Officer

cc: Regional Administrator w/attachment
USNRC

Director w/attachment
USNRC – Office of Enforcement

Senior Project Manager w/attachment
USNRC – NRR Project Directorate IV-1

Senior Resident Inspector w/attachment
USNRC

NPG Distribution w/o attachment

Records w/attachment

ATTACHMENT

Event Description

On October 28, 2003, CNS experienced a fire on the cross-arm of a wooden 345 kV transmission tower adjacent to the 345 kV switchyard. The tower supported the main generator output lines and was located between the main transformers and the main generator disconnect switches. The plant was shutdown due to the imminent loss of the main generator output line to the switchyard. The physical root cause of the fire was the failure to properly ground the insulator strings on the wooden structure cross member. The event was recorded in the NRC Unplanned Scrams for 7000 Critical Hours performance indicator and an LER was submitted (Reference 2) describing the event.

In 1997, a fire occurred on the 345 kV transmission line south of CNS that transmitted power from the CNS switchyard to Booneville, IA. That line had a similar tower configuration as the tower that experienced the 2003 fire. In the referenced inspection report, the NRC indicated that CNS performed no root cause or extent of condition evaluation of the 1997 event.

Correspondence Number: NLS2004021

The following table identifies those actions committed to by Nebraska Public Power District (NPPD) in this document. Any other actions discussed in the submittal represent intended or planned actions by NPPD. They are described for information only and are not regulatory commitments. Please notify the Licensing & Regulatory Affairs Manager at Cooper Nuclear Station of any questions regarding this document or any associated regulatory commitments.

COMMITMENT	COMMITTED DATE OR OUTAGE
None	