

November 15, 2006

EA-06-243 and EA-06-244

Mr. W. L. Berg
President and Chief Executive Officer
Dairyland Power Cooperative
3200 East Avenue South
P.O. Box 817
La Crosse, WI 54602-0817

SUBJECT: ISSUANCE OF ORDERS IMPOSING REQUIREMENTS FOR PROTECTING CERTAIN SAFEGUARDS INFORMATION, AND IMPOSING REQUIREMENTS FOR FINGERPRINTING AND CRIMINAL HISTORY CHECK REQUIREMENTS FOR ACCESS TO SAFEGUARDS INFORMATION

Dear Mr. Berg:

The U.S. Nuclear Regulatory Commission (NRC or Commission) has issued the enclosed Orders (Enclosures 1 and 3 with attachments) requiring you to implement specific requirements to ensure proper handling and protection of Safeguards Information (SGI), to avoid unauthorized disclosure. Orders contain requirements that licensees or certificate holders must implement. You must respond to these Orders by filing a written answer, under oath or affirmation, consenting to the Orders, or providing the reasons why you believe the Orders should not have been issued.

Under Section 147 of the Atomic Energy Act of 1954, as amended, the Commission has authority to "...issue such orders, as necessary, to prohibit the unauthorized disclosure of safeguards information..." Unauthorized disclosure of SGI may result in civil and criminal penalties. Enclosure 1 to this letter directs you to protect this kind of information from unauthorized disclosure, in accordance with "Modified Handling Requirements for Protection of Certain Safeguards Information (SGI-M)" (Attachment 1 to Enclosure 1). Also provided is the "Designation Guide for Safeguards Information" (Enclosure 2), a guidance document to help you determine what information needs to be protected as SGI.

NRC has been notified or has determined that you will need to implement additional security measures (ASMs) in the near future. The ASMs contain SGI and should be protected in accordance with the enclosed Orders. The Energy Policy Act of 2005 imposed new requirements for access to SGI, which require individuals to go through a Federal Bureau of Investigations (FBI) identification and criminal records history check, based on fingerprints, before anyone is given access, by anyone, to SGI. To implement the fingerprinting requirements (Enclosure 3 with attachments, and Enclosure 4), the Licensee must designate an individual who will review the results of the FBI criminal history check, in conjunction with a trustworthy and reliability determination (Attachment 2 to Enclosure 1), before making SGI access determinations for others. This individual, referred to hereafter as the "reviewing official," must be someone who seeks access to SGI. Based on this individual's fingerprints

and FBI criminal history check, NRC staff will determine whether this individual may have access to SGI. If NRC determines that the individual may not be granted access to SGI, Order EA-06-244 (Enclosure 3) prohibits that individual from obtaining access to any SGI. If the initial reviewing official is not approved by NRC to have access to SGI, the Licensee may appeal this decision by following the procedures in Enclosure 5 to this letter, or the Licensee may nominate a different individual to be the reviewing official. The rights of the individual nominated to be the reviewing official are also described in Enclosure 5 to this letter. Once a reviewing official is approved by NRC, the reviewing official and only the reviewing official can make SGI access determinations for other Licensee employees who have a need-to-know the information, have been determined to be trustworthy and reliable, and have been fingerprinted and criminal history checked. The reviewing official can only make SGI access determinations for other individuals but cannot approve other individuals to act as reviewing officials. Only NRC can approve a reviewing official; therefore, if a Licensee wished to have a new or additional reviewing official, NRC must approve that individual before he/she can act as a reviewing official.

The enclosed Orders are effective immediately. These requirements will remain in effect until the Commission determines otherwise.

Licensees are required to submit fingerprints in accordance with Order EA-06-244 (Enclosure 3). The current processing fee is \$27.00 per submission and payment must accompany the request.

The enclosed Orders require that all Licensees respond within twenty (20) days of the date of the Orders and implement the requirements before providing access to SGI to any individual. Please contact John Hickman, (301) 415-3017, jbh@nrc.gov, or Kristina Banovac, (301) 415-5114, klb@nrc.gov, to facilitate resolution of any issues or questions related to compliance with the requirements in the enclosed Orders.

Licensee responses to the Orders (not fingerprint cards) are required to be submitted to the Director, Office of Federal and State Materials and Environmental Management Programs, and should be addressed to the attention of Kristina Banovac, Mail Stop T-7E18. The following mailing addresses should be used:

For normal postal delivery, mail to:

Director, Office of Federal and State Materials and Environmental Management
Programs
U.S. NRC
Washington, D.C., 20555-0001
Attn: Kristina Banovac, Mail Stop T-7E18

For delivery services requiring a street address, mail to:

Director, Office of Federal and State Materials and Environmental Management
Programs
U.S. NRC
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738
Attn: Kristina Banovac, Mail Stop T-7E18

Fingerprint cards, along with payment (payable to U.S. NRC), are required to be submitted to the Director, Division of Facilities and Security, and should be addressed to the attention of the Criminal History Program, Mail Stop T-6E46. A short cover letter should be included listing the nominated reviewing official(s) and the docket number(s). The following mailing addresses should be used:

For normal postal delivery, mail to:

Director, Division of Facilities and Security
U.S. NRC
Washington, D.C., 20555-0001
Attn: Criminal History Program, Mail Stop T-6E46

For delivery services requiring a street address, mail to:

Director, Division of Facilities and Security
U.S. NRC
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738
Attn: Criminal History Program, Mail Stop T-6E46

The enclosed Orders have been forwarded to the Office of the Federal Register for publication.

Sincerely,

/RA/

Charles L. Miller, Director
Office of Federal and State Materials
and Environmental Management Programs

Enclosures:

1. Order Imposing Requirements for the Protection of Certain Safeguards Information
2. Designation Guide for Safeguards Information
3. Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information
4. Guidance for Licensee's Evaluation of Access to Safeguards Information with the Inclusion of Criminal History Records (Fingerprint) Checks
5. Process to Challenge NRC Denials or Revocations of Access to Safeguards Information

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OFFICE	FSME/DWMEP/DURLD	FSME/DWMEP/DURLD	FSME/DWMEP/DURLD	FSME/DWMEP/DURLD	FSME/DWMEP
NAME	KBanovac	JHickman	CCraig	KMcConnell	LCamper (SFlanders for)
DATE	10/11/06	10/13/06	10/16/06	10/19/06	10/20/06
OFFICE	ADM/DFS/SEC	OE:OD	NSIR:OD	OGC	FSME:OD
NAME	RSeltzer	CCarpenter (MBurrell for)	RZimmerman	JGoldberg (DReddick for)	CMiller
DATE	10/24/06	10/31/06	10/30/06	11/6/06	11/15 /06

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ENCLOSURE 2:

Designation Guide for Safeguards Information

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