

October 29, 2008

EA-08-223

Mr. David A. Christian  
President and Chief Nuclear Officer  
Dominion Energy Kewaunee, Inc.  
Innsbrook Technical Center  
5000 Dominion Boulevard  
Glen Allen, VA 23060-6711

SUBJECT: FINAL SIGNIFICANCE DETERMINATION FOR A WHITE FINDING AND  
NOTICE OF VIOLATION; NRC INSPECTION REPORT NO. 05000305/2008503;  
KEWAUNEE POWER STATION

Dear Mr. Christian:

The purpose of this letter is to provide you the final results of our significance determination of 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 importance to safety that may require additional NRC inspections. This White finding involved Kewaunee's emergency plan emergency action levels (EALs) RA1.1 and RA1.2 specifying instrument threshold values that were beyond the limits of the effluent radiation monitors' capabilities to accurately measure and indicate. The inability to classify emergencies with these EALs does not comply with the requirements in 10 CFR 50.54(q) associated with planning standard 50.47(b)(4).

In a telephone conversation with Mr. Hironori Peterson, of the U.S. Nuclear Regulatory Commission (NRC), Region III, on September 29, 2008, Mr. Thomas Breene of your staff indicated that Dominion 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 or to provide a written response.

After considering the information developed during the inspection, the NRC has concluded that the inspection finding is appropriately characterized as White, a finding with low to moderate importance to safety that may require additional NRC inspections. The subject inspection report provided the detailed information about the assumptions used in the Emergency Preparedness Significance Determination Process analysis.

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 the NRC Inspection Manual Chapter 0609, Attachment 2.

The NRC has also determined that the finding is associated with a violation of NRC requirements, as cited in the enclosed Notice of Violation (Notice). Specifically, the NRC determined that a violation of 10 CFR Part 50.54(q) occurred due to your staff's failure to follow and maintain in effect emergency plans which met the standards in 50.47(b). The circumstances surrounding the violation were described in detail in the subject inspection report.

In accordance with the NRC Enforcement Policy, the Notice is considered an escalated enforcement action because it is associated with a White finding.

The NRC has concluded that the information regarding the reason for the violation, the corrective actions taken, and the date when full compliance was achieved is already adequately addressed on the docket in the subject inspection report. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position.

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 2.390 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 NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

Sincerely,

*/RA/*

James L. Caldwell  
Regional Administrator

Docket No. 50-305  
License No. DPR-43

Enclosure:  
Notice of Violation

cc w/encl: S. Scace, Site Vice President  
M. Wilson, Director, Nuclear Safety and Licensing  
C. Funderburk, Director, Nuclear Licensing and  
Operations Support  
T. Breene, Manager, Nuclear Licensing  
L. Cuoco, Senior Counsel  
D. Zellner, Chairman, Town of Carlton  
J. Kitsembel, Public Service Commission of Wisconsin  
P. Schmidt, State Liaison Officer

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Sincerely,

**/RA/**

James L. Caldwell  
Regional Administrator

Docket No. 50-305  
License No. DPR-43

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cc w/encl: S. Scace, Site Vice President  
M. Wilson, Director, Nuclear Safety and Licensing  
C. Funderburk, Director, Nuclear Licensing and Operations Support  
T. Breene, Manager, Nuclear Licensing  
L. Cuoco, Senior Counsel  
D. Zellner, Chairman, Town of Carlton  
J. Kitsembel, Public Service Commission of Wisconsin  
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<sup>1</sup> OE concurrence received via e-mail from G. Gulla on October 22, 2008.

<sup>2</sup> FSME concurrence received via e-mail from G. Gulla on October 22, 2008.

Letter to David A. Christian from James L. Caldwell dated October 29, 2008

SUBJECT: FINAL SIGNIFICANCE DETERMINATION FOR A WHITE FINDING AND  
NOTICE OF VIOLATION; NRC INSPECTION REPORT NO.  
05000305/2008503(DRS); KEWAUNEE POWER STATION

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## NOTICE OF VIOLATION

Dominion Energy, Kewaunee, Inc.  
Kewaunee Power Station

Docket No. 50-305  
License No. DPR-43  
EA-08-223

During an inspection conducted at the Kewaunee Power Station on June 16 through 20, 2008, and including in-office reviews conducted from July 14 through 30, 2008, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 50.54(q) states in part that the licensee shall follow and maintain in effect emergency plans which meet the standards in 50.47(b) and requirements in Appendix E.

10 CFR 50.47(b)(4) states in part that the emergency plans must have a standard emergency classification and action level scheme, the bases which include facility system and effluent parameters, in use by the licensee and State and local response plans call for reliance on information provided by the licensee for determination of minimum initial offsite response measures.

Contrary to the above, for the period of August 26, 2006, through May 29, 2008, the licensee failed to follow and maintain in effect emergency plans which meet the standards in 50.47(b) and requirements in Appendix E. Additionally, the licensee failed to have a standard emergency classification and action level scheme, which was based on facility system and effluent parameters. The licensee, State, and local response plans relied upon the scheme to determine the minimum initial offsite response measures.

Specifically, two Emergency Action Levels, RA1.1 and RA1.2, contained incorrect setpoint values used for declaring Alert declarations. As a result, action directed by the State and local emergency response plans, which rely on information provided by the licensee, could have potentially delayed minimum initial offsite response measures.

This violation is associated with a White Significance Determination Process finding.

The NRC has concluded that the information regarding the reason for the violation, the corrective actions taken, and the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 05000305/2008503. 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," EA-08-223, and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region III, and a copy to the NRC Resident Inspector at the Kewaunee Power Station, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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.

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 29<sup>th</sup> day of October, 2008