

January 27, 2009

U. S. Nuclear Regulatory Commission  
Attention: Document Control Desk  
Washington, DC 20555

Serial No. 09-061  
KPS/LIC/JG: R0  
Docket No. 50-305  
License No. DPR-43

**DOMINION ENERGY KEWAUNEE, INC.**  
**KEWAUNEE POWER STATION**  
**REQUEST FOR ENFORCEMENT DISCRETION FROM TECHNICAL SPECIFICATION**  
**3.7.a.7, EMERGENCY DIESEL GENERATORS**

In accordance with the guidance provided by reference 1, Dominion Energy Kewaunee, Inc. (DEK) requests that the Nuclear Regulatory Commission (NRC) exercise enforcement discretion to allow Kewaunee Power Station (KPS) to remain in the OPERATING mode. This discretion is requested to last until February 6, 2009, by which time License Amendment Request (LAR) 247, which would reduce the amount of fuel oil required to be maintained onsite, is expected to be approved by the NRC. The lower fuel oil volume proposed in LAR 247 is the revised value for a seven-day supply of fuel oil needed by the emergency diesel generators (EDG).

This letter requests one-time enforcement discretion from the specification to maintain 35,000 gallons of fuel oil required by KPS Technical Specification (TS) 3.7.a.7. TS 3.7.a.7 states:

Both diesel generators are OPERABLE. The two underground storage tanks combine to supply at least 35,000 gallons of fuel oil for either diesel generator and the day tanks for each diesel generator contain at least 1,000 gallons of fuel oil.

NRC staff determined that, without a siphon arrangement to equalize storage tank levels, KPS is not in compliance with the requirements of KPS TS 3.7.a.7 that the EDG fuel oil storage tanks combine to supply at least 35,000 gallons for either EDG. DEK had relied on a portable transfer pump to provide the combined fuel oil volume of at least 35,000 gallons. The NRC determined that using a portable transfer pump is not consistent with the KPS licensing basis. Therefore, compliance with TS 3.7.a.7 is not currently possible for the existing storage tanks without a siphon arrangement. Consequently, this condition rendered both EDGs inoperable.

This follow-up letter is submitted pursuant to a verbal request that was made via a telephone conference on January 23, 2009, between representatives of DEK and NRC. The NRC verbally granted DEK's request for enforcement discretion at 3:42 p.m. CST. Enforcement discretion, from the requirements of TS 3.7.a.7 to supply at least 35,000

A001  
NRC

gallons of fuel oil from the fuel oil storage tanks, was granted for a period of 14 days. The NRC based this discretion on DEK maintaining a minimum usable fuel oil volume of 32,858 gallons for each EDG (including a minimum of 1000 gallons in the associated EDG's day tanks), without reliance on a portable transfer pump.

Attached to this letter is our written follow-up request for enforcement discretion, containing a discussion of those items identified in reference 1, that are required to be addressed.

If you have any questions or require additional information, please contact Mr. Thomas Breene at 920-388-8599.

Sincerely,



Stephen E. Scace  
Site Vice President, Kewaunee Power Station

Commitments made in this letter:

1. DEK commits to administratively control the amount of fuel oil in each fuel oil storage tank such that a minimum usable amount of 32,858 gallons (including the day tanks) is available to supply each EDG (without reliance on a portable transfer pump), for the duration of the enforcement discretion.

References:

1. NRC Inspection Manual, Part 9900: Technical Guidance, "Operations - Enforcement Discretion," dated February 7, 2005.

Attachments:

1. Discussion of Items Identified in NRC Inspection Manual Part 9900, Technical Guidance, Operations – Notices of Enforcement Discretion.
2. Basis for Conclusion that the Noncompliance will not be a Potential Detriment to the Health and Safety of the Public.

cc: Regional Administrator, Region III  
U. S. Nuclear Regulatory Commission  
2443 Warrenville Road  
Suite 210  
Lisle, IL 60532-4352

Mr. P. S. Tam  
Sr. Project Manager  
U.S. Nuclear Regulatory Commission  
One White Flint North, Mail Stop O8-H4A  
11555 Rockville Pike  
Rockville, MD 20852-2738

NRC Senior Resident Inspector  
Kewaunee Power Station

Public Service Commission of Wisconsin  
Electric Division  
P.O. Box 7854  
Madison, WI 53707

**Attachment 1**

**REQUEST FOR ENFORCEMENT DISCRETION FROM TECHNICAL SPECIFICATION  
3.7.a.7, EMERGENCY DIESEL GENERATORS**

**DISCUSSION OF ITEMS IDENTIFIED IN NRC INSPECTION MANUAL PART 9900,  
TECHNICAL GUIDANCE, OPERATIONS – NOTICES OF ENFORCEMENT  
DISCRETION**

**KEWAUNEE POWER STATION  
DOMINION ENERGY KEWAUNEE, INC.**

**Discussion of Items Identified in NRC Inspection Manual Part 9900, Technical Guidance, Operations – Notices of Enforcement Discretion**

Dominion Energy Kewaunee, Inc. (DEK) requests that the Nuclear Regulatory Commission (NRC) exercise enforcement discretion to allow Kewaunee Power Station (KPS) to remain in the OPERATING mode for 14 days (commencing at 3:42 p.m. CST on January 23, 2009) so as to allow time for approval of License Amendment Request 247 on an exigent basis.

**1. The TS or other license conditions that will be violated.**

Kewaunee Power Station (KPS) Technical Specification (TS) TS 3.7.a.7 states:

Both diesel generators are OPERABLE. The two underground storage tanks combine to supply at least 35,000 gallons of fuel oil for either diesel generator and the day tanks for each diesel generator contain at least 1,000 gallons of fuel oil.

Enforcement discretion is being requested to avoid an unnecessary plant shutdown and restart that would result from compliance with the fuel oil volume requirement in TS 3.7.a.7.

**2. The circumstances surrounding the situation, including likely causes, the need for prompt action, action taken to avoid the need for a NOED and identification of any relevant historical events.**

On January 23, 2009, the NRC informed DEK that, without a siphon arrangement to equalize storage tank levels, KPS was not in compliance with the requirements of KPS TS 3.7.a.7 that the EDG fuel oil storage tanks combine to supply at least 35,000 gallons for either EDG. DEK had relied on a portable transfer pump to provide the combined fuel oil volume of at least 35,000 gallons. The NRC determined that using a portable transfer pump is not consistent with the KPS licensing basis. Therefore, compliance with the 35,000 gallon requirement in TS 3.7.a.7 is not currently possible for the existing storage tanks without a siphon arrangement. The installed siphon arrangement cannot be readily restored to reliably ensure equalization of storage tank levels. This condition is not in compliance with the TS because each tank contains less than 35,000 gallons.

Consequently, this condition rendered both EDGs inoperable and required compliance with TS 3.0.c, Standard Shutdown Sequence. Without the requested enforcement discretion, compliance with TS 3.7.a.7 (and TS 3.0.c) would require that DEK initiate actions within one hour to place the unit in at least HOT

STANDBY within the next six hours, at least HOT SHUTDOWN within the following six hours, and at least COLD SHUTDOWN within the subsequent 36 hours.

- 3. Information to show that the cause and proposed path to resolve the situation are understood by the licensee, such that there is a high likelihood that planned actions to resolve the situation can be completed within the proposed NOED time frame.**

The 35,000 gallon requirement in TS 3.7.a.7 was a conservative value to provide a minimum fuel supply of seven days for one EDG. The original purpose of the installed siphon line was to equalize the two storage tank levels. Lack of this feature precludes the ability to supply the combined volume of the two storage tanks to either EDG without reliance on a portable transfer pump. The NRC determined that reliance on a portable transfer pump is not consistent with the KPS licensing basis.

DEK submitted License Amendment Request (LAR) 247 on January 23, 2009, to revise the required EDG fuel oil volume such that it provides a seven day supply to each EDG without relying on a portable transfer pump. On January 26, 2009, DEK submitted a supplement to LAR 247 and provided the appropriate justification for requesting that it be approved on an exigent basis.

- 4. The safety basis for the request, including an evaluation of the safety significance and potential consequences of the proposed course of action.**

The proposed minimum limit on the amount of fuel oil required for the emergency diesel generators is sufficient to provide for seven days of continuous operation. Consistent with industry PRA models, the mission time for EDGs in the KPS PRA model is 24 hours. Within this time window, it is postulated that, for all accidents and transients modeled in the PRA, a safe stable condition is reached. The administratively controlled amount of available fuel oil allows EDGs to be operated for a significantly longer time than the 24-hour mission time. Additionally, the offsite power non-recovery probability at seven days is negligible. Therefore, the above noncompliance with the 35,000 gallon requirement in TS 3.7.a.7 does not invalidate the PRA assumptions or assertions and there is no increased risk due to this noncompliance. The incremental conditional core damage probability (ICCDP) and the incremental conditional large early release probability (ICLERP) are negligible.

Continued operation of the plant during the period of enforcement discretion will not cause risk to exceed the level determined acceptable during normal work controls; therefore, there is no net increase in radiological risk to the public.

- a. **Use the zero maintenance PRA model to establish the plant's baseline risk and the estimated risk increase associated with the period of enforcement discretion. For the plant-specific configuration the plant intends to operate in during the period of enforcement discretion, the incremental conditional core damage probability (ICCDP) and incremental conditional large early release probability (ICLERP) should be quantified and compared with guidance thresholds of less than or equal to an ICCDP of  $5E-7$  and an ICLERP of  $5E-8$ . These numerical guidance values are not pass-fail criteria.**

A plot of the core damage risk projection for the 14-day period of the enforcement discretion is provided at the end of Attachment 1 to this letter. The projected ICCDP for the period is  $3.5E-7$  and the ICLERP is  $4.7E-8$ . These ICCDP and ICLERP values are the base numbers; therefore, as discussed above, there is no impact on plant operational risk due to the noncompliant condition.

- b. **Discuss the dominant risk contributors (cut sets/sequences) and summarize the risk insights for the plant-specific configuration the plant intends to operate in during the period of enforcement discretion. This discussion should focus primarily on risk contributors that have changed (increased or decreased) from the baseline model as a result of the degraded condition and resultant compensatory measures, if any.**

There is no increase in risk as a result of the noncompliant condition or the resultant enforcement discretion; therefore, none of the risk contributors have changed from the values in the baseline model.

- c. **Explain compensatory measures that will be taken to reduce the risk associated with the specified configuration. Compensatory measures to reduce plant vulnerabilities should focus on both event mitigation and initiating event likelihood. The objectives are to:**
- i. **reduce the likelihood of initiating events;**
  - ii. **reduce the likelihood of unavailability of trains redundant to the equipment that is out-of-service during the period of enforcement discretion;**
  - iii. **increase the likelihood of successful operator recovery actions in response to initiating events.**

DEK has implemented compensatory measures designed to minimize plant risk during the period that the plant operates with the noncompliant condition. The

compensatory measures consist of administratively controlling the amount of fuel oil in each fuel oil storage tank such that a minimum usable amount of 32,858 gallons (including the day tanks) is available to supply each EDG (without reliance on a portable transfer pump), for the duration of the enforcement discretion. This will ensure a seven day supply of fuel oil is available to each EDG. The fuel oil storage requirements controlled by these compensatory measures are consistent with those that are proposed to be required by the revised TS fuel oil storage limits contained in LAR 247.

- d. Discuss how the proposed compensatory measures are accounted for in the PRA. These modeled compensatory measures should be correlated, as applicable, to the dominant PRA sequences identified in item b. above.**

The fuel oil storage requirements currently being controlled via compensatory measures are consistent with those that are proposed as permanent TS limits. The revised TS limits will ensure that emergency power will continue to be provided as assumed in accident analysis and in the PRA model. This condition does not differ from the previous requirements and assumptions in PRA modeling regarding performance of emergency power supplies. As discussed in the response to item 4.b above, there is no impact on the PRA figures of merit (CDF and LERF) and there is no change in the dominant PRA consequences. Therefore, no PRA model changes are necessary as a result of this condition.

- e. Discuss the extent of condition of the failed or unavailable component(s) to other trains/divisions of equipment and what adjustments, if any, to the related PRA common cause factors have been made to account for potential increases in their failure probabilities.**

There are no failed or unavailable components because sufficient fuel oil remains available to fulfill the assumptions of the PRA model for the EDGs. Therefore, there is no potential for a common cause failure.

- f. Discuss external event risk for the specified plant configuration.**

For external events as well as internal events, a seven day supply of fuel oil remains available to each EDG. Therefore, the external event risk for the plant remains unchanged.

- g. Discuss forecasted weather conditions for the NOED period and any plant vulnerabilities related to weather conditions.**

No severe weather conditions are forecast for the foreseeable portion of the NOED period. Colder temperatures than normal are expected near term;

however, such conditions are within anticipated ranges. Probable weather conditions during the NOED period are not expected to expose the plant to any vulnerability.

DEK has determined that continuing to operate the plant under enforcement discretion does not involve a net increase in radiological risk when compared to the risk associated with a plant shutdown and potential restart.

**5. The justification for the duration of the noncompliance.**

KPS is currently maintaining at least a seven day supply of fuel oil available to each EDG without reliance on interconnection of the underground fuel oil storage tanks. This conforms to the requirements that will be imposed by approval of License Amendment Request (LAR) 247. Therefore, achieving and maintaining safe shutdown of the plant would not be impaired. Procedural controls have been established to ensure this volume of fuel oil is maintained. The 14 day period for the enforcement discretion was requested to allow sufficient time for appropriate NRC review and approval of the LAR and to provide public notice in accordance with 10 CFR 50.91.

**6. The condition and operational status of the plant (including safety-related equipment out of service or otherwise inoperable).**

KPS plans to continue operation at approximately full power until the next refueling outage, which is scheduled for September 2009. Routine maintenance will continue during this time. An eight percent power reduction is planned for January 30 – February 1, 2009, for routine testing of the auxiliary feedwater system and planned maintenance on the heater drain pumps.

A chronological list of planned activities affecting safety-related equipment during the 14 day period covered by enforcement discretion is provided in the Table at the end of Attachment 1 to this letter. The major equipment planned to be out of service during the 14 day period includes the following:

- EDGs – routine fast start testing
- Individual reactor protection system channels – periodic surveillance testing
- Individual safeguards logic channels – periodic surveillance testing
- Individual safeguard bus under voltage and under frequency channels – periodic surveillance testing
- B train shield building ventilation and auxiliary building ventilation – periodic surveillance test
- B train auxiliary feedwater system – periodic surveillance testing and breaker maintenance

**7. The status and potential challenges to off-site and on-site power sources.**

There are currently no challenges to the off-site or on-site power sources. Operating with the current condition poses no new or different challenges to the onsite or offsite power sources.

Monthly test runs of both EDGs are planned during this 14 day period. The A EDG periodic fast start test is scheduled for January 29, 2009, while the B EDG periodic fast start test is scheduled for February 5, 2009. The EDG is operated loaded for about one hour during this testing, during which it is considered inoperable for accident response purposes.

The grid operator (American Transmission Company) was contacted to verify that no maintenance is scheduled during the next 14 days that would be expected to affect off site power supplies to KPS.

**8. The basis for the licensee's conclusion that the noncompliance will not be of potential detriment to the public health and safety.**

DEK has completed an analysis that concludes KPS has a seven day supply of fuel oil for each EDG, without reliance on a portable transfer pump. Therefore, KPS meets all the safety functions as described in the USAR and the noncompliance will not be of potential detriment to the public health and safety.

**9. The basis for the licensee's conclusion that the noncompliance will not involve adverse consequences to the environment.**

Operation of KPS during the period of non-compliance with the 35,000 gallon requirement in TS 3.7.a.7 will result in no adverse consequences to the environment. During this period, there will be no change in the types or increases in the amounts of any effluents that may be released offsite, and in no increase in individual or cumulative occupational radiation exposure.

**10. A statement that the request has been approved by the facility organization that normally reviews safety issues (Plant Onsite Review Committee, or its equivalent).**

The proposed actions to verbally request enforcement discretion, along with plant specific conditions requiring the need for the request, were approved by the KPS Facility Safety Review Committee on January 23, 2009. The follow up written request contained in this letter was approved by the KPS Facility Safety Review Committee on January 27, 2009.

- 11. The request must specifically address which of the NOED criteria for appropriate plant conditions specified in Section B is satisfied and how it is satisfied.**

KPS is presently operating at full power in the OPERATING MODE. The applicable NOED criterion for this condition is:

1. For an operating plant, the NOED is intended to:
  - (a) avoid unnecessary transients as a result of compliance with the license condition and, thus, minimize potential safety consequences and operational risks.

As previously stated, this request is based on avoiding an unnecessary transient as a result of compliance with the 35,000 gallon requirement in TS 3.7.a.7, and thus minimize potential safety consequences and operational risks involved in performing a shutdown of the unit. The potential consequences of performing a shutdown are considered both an unnecessary risk and challenge to the plant under the circumstances for which the request is made. The NOED is intended to avoid an unnecessary plant shutdown as a result of compliance with the requirements of TS 3.7.a.7 and thus, minimize potential safety consequences and operational risks.

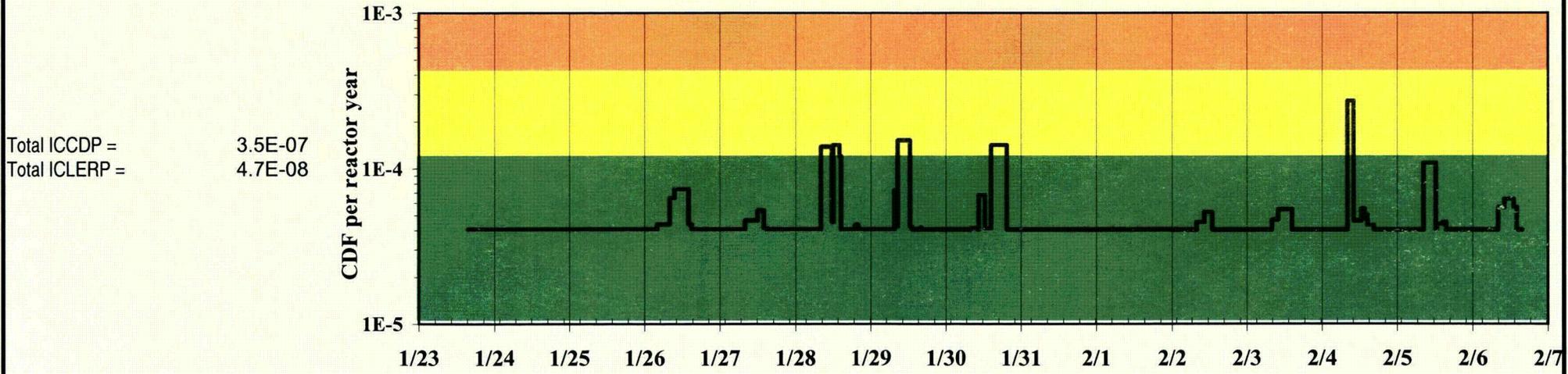
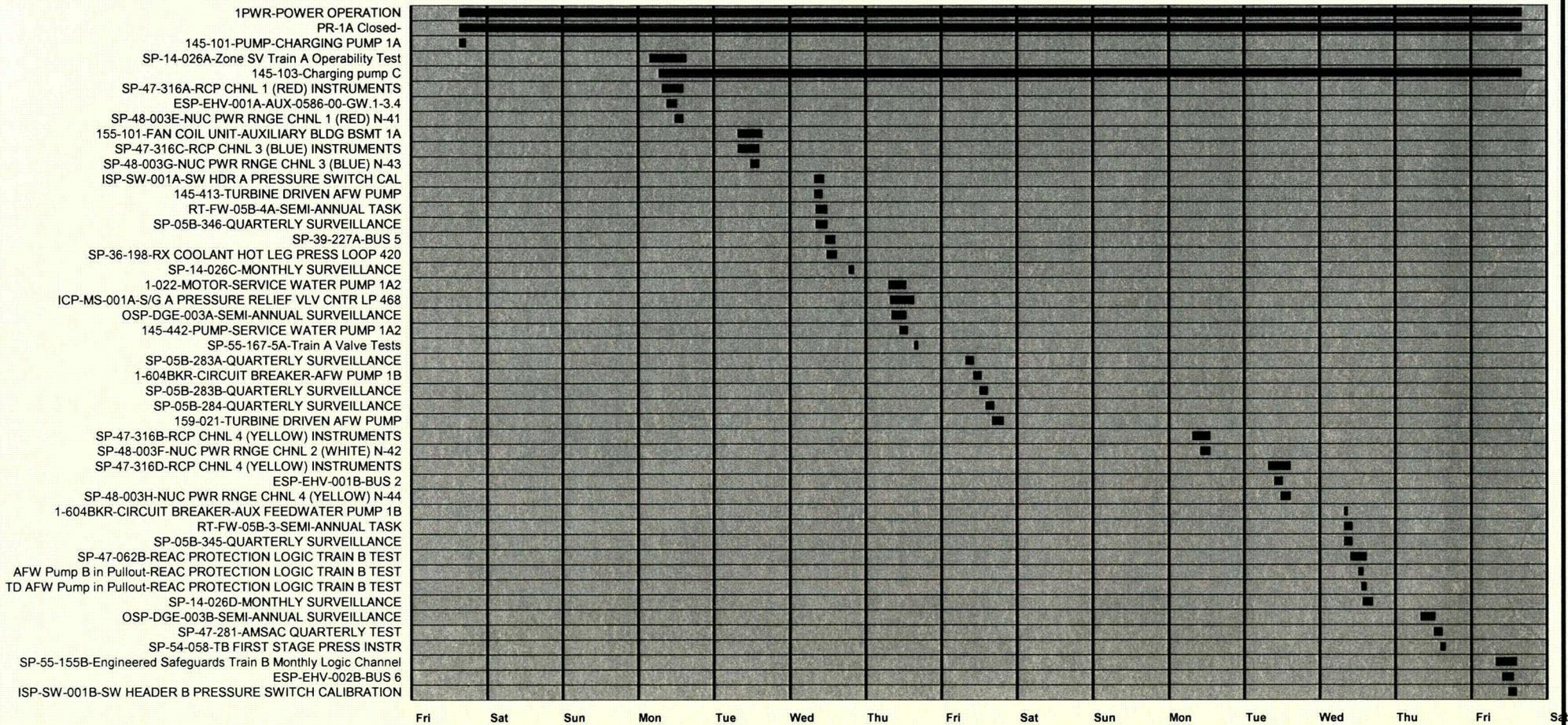
- 12. Unless otherwise agreed as discussed in Section B, a commitment is required from the licensee that the written NOED request will be submitted within 2 working days and the follow-up amendment will be submitted within 4 working days of verbally granting the NOED. The licensee's amendment request must describe and justify the exigent circumstances (see 10 CFR 50.91(a)(6)).**

DEK submitted License Amendment Request (LAR) 247 associated with this condition on January 23, 2009. LAR 247 requested a permanent change to the KPS TS. DEK submitted a supplement to LAR 247 on January 26, 2009, requesting approval in an exigent manner, and describing and justifying the exigent circumstances. This written NOED request is being submitted as stated in the conference call with NRC staff on January 23, 2009, during which, enforcement discretion was granted.

- 13. In addition to items 1-12 above, for a severe-weather NOED request the licensee must provide the following information:**

This condition is not a severe weather NOED request.

# Risk Projection for 14-day NOED Period



**Attachment 2**

**REQUEST FOR ENFORCEMENT DISCRETION FROM TECHNICAL SPECIFICATION  
3.7.a.7, EMERGENCY DIESEL GENERATORS**

**BASIS FOR CONCLUSION THAT THE NONCOMPLIANCE WILL NOT BE OF  
POTENTIAL DETRIMENT TO THE PUBLIC HEALTH AND SAFETY**

**KEWAUNEE POWER STATION  
DOMINION ENERGY KEWAUNEE, INC.**

**BASIS FOR CONCLUSION THAT THE NONCOMPLIANCE WILL NOT BE OF  
POTENTIAL DETRIMENT TO THE PUBLIC HEALTH AND SAFETY**

Dominion Energy Kewaunee, Inc. (DEK) is requesting enforcement discretion from the requirement to maintain 35,000 gallons of fuel oil contained in Kewaunee Power Station (KPS) Technical Specification (TS) 3.7.a.7, Emergency Diesel Generators (EDG). Specifically, discretion is requested from the requirement to shutdown the plant, as would be required by TS 3.7.a.7 (and TS 3.0.c), if the 35,000 gallon requirement is not met.

This request for enforcement discretion is being made to avoid an unnecessary plant transient that would result from compliance with the 35,000 gallon fuel oil requirement in TS 3.7.a.7. DEK is requesting enforcement discretion from the Nuclear Regulatory Commission (NRC) to allow the plant to continue operation with this noncompliant condition for 14 days, while the revised fuel oil storage requirement proposed in License Amendment Request 247 is approved on an exigent basis, thereby restoring compliance with TS 3.7.a.7.

Kewaunee is currently operating at full power. The 35,000 gallon fuel oil storage requirement of TS 3.7.a.7 is not met; however, a seven day supply of fuel oil is available to either EDG without reliance on a portable transfer pump. Justification for the volume of fuel oil required to provide a seven day supply to each EDG, 32,858 gallons, is provided in LAR 247. Therefore, with the exception of the noncompliance with the 35,000 gallon fuel oil storage requirement of TS 3.7.a.7, both EDGs are otherwise operable. Approval of LAR 247 would revise the fuel oil storage requirement and thereby correct the noncompliant condition. The proposed enforcement discretion would allow Kewaunee to continue to operate with the noncompliant condition until February 6, 2009, by which time LAR 247 is expected to be approved.

DEK has evaluated whether or not a significant hazards consideration is involved with the proposed enforcement discretion by focusing on the three standards set forth in 10 CFR 50.92, "Issuance of Amendment," as discussed below:

**1. Does the proposed enforcement discretion involve a significant increase in the probability or consequences of an accident previously evaluated?**

Response: No.

The EDG fuel oil storage system and the EDGs are not accident initiators. Since they are not accident initiators, the proposed activity does not significantly increase the probability of an accident previously evaluated.

There is no change to any equipment response or accident mitigation scenario, and this change results in no additional challenges to fission product barrier integrity. The proposed activity does not alter the design, configuration, operation, or function of any plant system, structure, or component. As a result, the outcomes of previously evaluated accidents are unaffected. The revised fuel oil storage requirement continues to provide seven days of available fuel oil to the EDGs consistent with the guidance of ANSI N195-1976/ANS-59.51, section 5.4.

In addition, compensatory measures have been implemented to ensure that a seven day supply of fuel oil is provided to each EDG without reliance on a portable transfer pump. These compensatory measures add additional assurance that there is not a significant increase in the consequences of an accident previously evaluated.

**2. Does the proposed enforcement discretion create the possibility of a new or different kind of accident from any accident previously evaluated?**

Response: No.

The EDG fuel oil storage system and the EDGs are not accident initiators. The proposed activity does not challenge the performance or integrity of any safety-related system. The proposed activity does not install or remove any plant equipment. The proposed activity does not alter the design, physical configuration, or mode of operation of any plant structure, system, or component. No physical changes are being made to the plant, so no new accident causal mechanisms are being introduced. The compensatory measures enacted will continue to ensure the required seven day supply of available fuel oil to the EDGs consistent with the guidance of ANSI N195-1976/ANS-59.51, section 5.4.

**3. Does the proposed enforcement discretion involve a significant reduction in a margin of safety?**

Response: No.

During the period of the proposed noncompliance, compensatory measures will be in place. These compensatory measures ensure that a seven day supply of fuel oil is provided to each EDG without reliance on a portable transfer pump. Since the compensatory measures provide the same function as the original licensing basis requirement, there is no significant reduction in the margin of safety.