March 23, 2009

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of	)	
	)	Docket Nos. 50-282-LR
Northern States Power Co.	)	50-306-LR
	)	
(Prairie Island Nuclear Generating Plant,	)	ASLBP No. 08-871-01-LR
Units 1 and 2)	)	

NORTHERN STATES POWER COMPANY'S
MOTION TO DISMISS PIIC CONTENTIONS 6 AND 11 AS MOOT

I. INTRODUCTION

Pursuant to 10 C.F.R. § 2.323(a), Applicant Northern States Power Company, a Minnesota corporation ("NSPM"), hereby moves for dismissal of the Prairie Island Indian Community ("PIIC")'s Contention 6, which alleges that the License Renewal Application ("LRA") fails to include a plan to manage aging of containment coatings, and Contention 11, which alleges that the LRA does not provide sufficient details of the aging management program for flow accelerated corrosion ("FAC"). NSPM moves this Atomic Safety and Licensing Board (the "Board") to dismiss as moot PIIC Contention 6 and PIIC Contention 11 because NSPM has amended the LRA to include the information whose omission was the basis for each contention.

II. PROCEDURAL BACKGROUND

NSPM, formerly Nuclear Management Company, LLC, submitted to the NRC the application for renewal of Operating License Nos. DPR-42 and DPR-60 for the Prairie Island Nuclear Generating Plant ("PINGP") Units 1 and 2 on April 11, 2008. On August 18, 2008, PIIC filed its "Notice of Intent to Participate and Petition to Intervene" ("PIIC Petition"), alleging eleven separate contentions. The PIIC Petition included Contention 6, which claimed

that "the License Renewal Application does not include an adequate plan to monitor and manage the effects of aging for containment coatings, whose integrity is directly related to plant safety and the performance of the emergency core cooling systems." PIIC Petition at 26. The PIIC Petition also included Contention 11, which alleged that "the program for managing flow accelerated corrosion (FAC) fails to comply with 10 C.F.R. § 54.21(a)(3)." Id. at 37.

The Board's Memorandum and Order of December 5, 2008, admitted PIIC Contention 6 as formulated by PIIC. Northern States Power Co. (Prairie Island Nuclear Generating Plant, Units 1 and 2), LBP-08-26, __ N.R.C. __, (Dec. 5, 2008) ("LBP-08-26"), slip op. at 39. In admitting this contention, the Board stated, "Petitioner sets forth a contention of omission, alleging that Applicant has failed to describe a required AMP." Id.

The Board also admitted PIIC Contention 11 in the following amended form:

> The LRA fails to supply sufficient details of the aging management program for flow accelerated corrosion to demonstrate that its effects will be adequately managed.

LBP-08-26 at 60. The Board explained that the description of the AMP in the Application leaves in question whether the AMP is consistent with the Generic Aging Lessons Learned ("GALL") Report.[1] Id. at 59.

To address the assertions in PIIC Contentions 6 and 11, NSPM filed a supplement to its LRA on March 12, 2009, that (i) adds an aging management program for containment coatings and (ii) expands the description of the flow accelerated corrosion program to address all ten program elements and make explicit the program's consistency with the GALL Report. This LRA supplement is attached hereto as Exhibit A. The information contained in the LRA

[1] NUREG-1801, Generic Aging Lessons Learned Report, Rev. 1 (Sept. 2005).

supplement moots PIIC Contentions 6 and 11 as admitted by the Board, and those Contentions should, therefore, be dismissed.

III. WHEN AN APPLICANT CURES AN ALLEGED OMISSION IN THE APPLICATION WHICH SERVED AS THE BASIS FOR A CONTENTION, THE CONTENTION IS RENDERED MOOT

Where "a contention is 'superseded by the subsequent issuance of licensing-related documents'…the contention must be disposed of or modified." Duke Energy Corp. (McGuire Nuclear Station, Units 1 and 2; Catawba Nuclear Station, Units 1 and 2), CLI-02-28, 56 N.R.C. 373, 382 (2002) (finding that submission of additional analyses mooted contention regarding severe accident mitigation alternatives analysis in applicant's original Environmental Report) (footnote omitted). Where "a contention alleges the omission of particular information or an issue from an application, and the information is later supplied by the applicant or considered by the Staff in a draft EIS, the contention is moot." Id. at 383 (footnote omitted).

As discussed below, PIIC Contentions 6 and 11 have been rendered moot by the submission of NSPM's LRA supplement. This Board should, therefore, dismiss PIIC Contentions 6 and 11.

IV. PIIC CONTENTION 6 SHOULD BE DISMISSED AS MOOT

A. PIIC Contention 6 Alleged the Omission of Information from the LRA

PIIC Contention 6 alleged that the LRA did "not include an adequate plan to monitor and manage the effects of aging for containment coatings." PIIC Petition at 26. The PIIC acknowledged that NSPM's containment inservice inspection program provided a method of checking the conditions of coatings "as a potential source of debris that could block the sump recirculation strainers," but argued that "containment coatings should be included in the scope of

license renewal, and the applicable aging effects should be appropriately managed." PIIC Petition at 26-27 (referencing Nuclear Management Company, LLC (NMC) Response to Generic Letter 2004-02, "Potential Impact of Debris Blockage on Emergency Recirculation During Design Basis Accidents at Pressurized Water Reactors," for the Prairie Island Nuclear Generating Plant, Aug. 31, 2005 (available at ADAMS Accession No. ML052440054)). In its "Prairie Island Indian Community's Reply to Nuclear Management Company's and the NRC's Answers to the Prairie Island Indian Community's Petition to Intervene" (September 19, 2008) ("PIIC Reply"), the PIIC elaborated that "[t]he PINGP application is deficient because it does not describe an effective aging management program for coatings which would ensure that the debris generated by a design-basis accident is bounded by the assumptions in the analysis performed for GL-04-02." PIIC Reply at 20.

In admitting PIIC Contention 6, the Board noted that "[i]t is clear…that Applicant [NSPM] has considered the issue of debris from failed containment coatings. Applicant's reply to GL 2004-02 and the associated strainer analysis may well demonstrate that coating degradation due to aging is adequately managed." LBP-08-26 at 38. Nevertheless, the Board construed PIIC Contention 6 to allege that NSPM "does not adequately describe its aging management plan in the Application," and admitted that Contention expressly as a "*contention of omission*, alleging that Applicant has failed to describe a required AMP." Id. at 38-39 (emphasis added).

B. The LRA Supplement Includes The Containment Coatings Aging Management Program Whose Omission Was The Basis for Contention 6

The LRA supplement filed by NSPM on March 12, 2009 provides an aging management program for containment coatings and, therefore, renders PIIC Contention 6 moot. NSPM

explains the reason for the inclusion of this program in the LRA supplement: "the Protective Coating Monitoring and Maintenance Program, has been included because of its importance to debris control following a postulated LOCA [loss of coolant accident], even though the coatings themselves are not relied upon to protect coated carbon steel components." Exhibit A, Enclosure 1 at 1; see also Exhibit A, Enclosure 2 at 1 ("The contribution of coatings to containment debris is event driven and is not a result of aging. The applicable coatings are not relied upon to protect coated carbon steel components from corrosion…. However, because the management of containment coatings is important for controlling the amount of debris available to be deposited on containment sump strainers following a LOCA, PINGP has chosen to include a Protective Coating Monitoring and Maintenance Program in LRA Section B2.1.41"). The inclusion of the program in the LRA addresses the omission alleged by PIIC Contention 6. The "purpose of the Protective Coating Monitoring and Maintenance Program is to ensure that the amount of coatings that could fail during a LOCA and become debris load on the containment sump B strainers does not exceed the strainers' design limits." Exhibit A, Enclosure 2 at 1 & 2; compare PIIC Reply at 20.

A comprehensive description of the aging management program for containment coatings is included in the LRA supplement. For example, the "Protective Coating Monitoring and Maintenance Program monitors the performance of Service Level 1 coated surfaces inside containment through periodic coating examinations, condition assessments, and remedial actions including repair or removal…. Records are maintained to ensure that the amount of unqualified or degraded qualified coatings do not exceed the prescribed limits." Exhibit A, Enclosure 2 at 3. Each of the elements of the aging management program for containment coatings is described in the LRA supplement and each element is evaluated with respect to the program contained in the

GALL Report. Exhibit A, Enclosure 2 at 3. Specifically, the "parameters monitored or inspected include any visible defects, such as blistering, cracking, flaking, peeling, delaminating, rusting, discoloration, and damage, among other indications." Exhibit A, Enclosure 2 at 4. A "visual inspection is performed [by qualified individuals] inside containment for evidence of degraded qualified coatings during each refueling outage…. Unqualified coatings are all assumed to fail as a result of a LOCA, and their inspection is conducted every other refueling outage to verify the design basis for debris loading of the sump strainers is met." Exhibit A, Enclosure 2 at 4. In addition to visual inspections, the program provides for "more detailed inspections for certain areas based on their potential to transport debris to the RHR recirculation strainers, potentially plugging the strainers or being ingested into the ECCS [emergency core cooling system]." Exhibit A, Enclosure 2 at 4. Drawings, inspection data sheets, and photographs are all used to record the findings, and the program uses ASTM Standards to evaluate the degraded condition of coatings. See Exhibit A, Enclosure 2 at 4-5. The inspection process uses the following instruments and equipment: "flashlight, thickness gages, tape measure, knife, marking pen, binoculars, and camera." Exhibit A, Enclosure 2 at 5.

After each inspection, trends are identified and "[i]nspection results are reviewed and corrective action is taken, including repair, removal, or evaluation for any identified degradation. Degradation that is not repaired or removed is evaluated in accordance with the plant's corrective action process, and degraded coating that is left in place in an area which could add to the volume of failed coatings is added to the Unqualified and Degraded (Qualified) Coatings Log and evaluated. The log compares the current inspection results against the established acceptance criteria and previous assessment results to ensure that the total volume of postulated failed coatings is less than the design limits." Exhibit A, Enclosure 2 at 5. Thus, the "evaluation

ensures that the recirculation strainers will not clog from coating debris following a LOCA, and will function as designed." Exhibit A, Enclosure 2 at 5.

Under the aging management program, defective or deficient coatings are those exhibiting blisters, cracking, flaking/peeling/delaminating, rusting or discoloration, according to specific definitions of each characterization. Exhibit A, Enclosure 2 at 6-7. The "program requires corrective action (i.e., repair or removal of coating) or an evaluation if the degraded qualified coating is left in place and could add to the volume of failed coatings." Exhibit A, Enclosure 2 at 7. The program considers plant-specific operating experience. See Exhibit A, Enclosure 2 at 8 ("The Protective Coating Monitoring and Maintenance Program is an existing program that incorporates both industry and plant specific operating experience to provide added assurance that the condition of coatings inside containment will be managed effectively during the period of extended operation"). A review of the plant-specific "operating experience indicates that the Protective Coating Monitoring and Maintenance Program has been effective in monitoring coatings inside containment by identifying degraded conditions, performing evaluations and corrective actions ensuring that the amount of coatings that could fail during a LOCA and become debris load on the containment sump B strainers does not exceed the strainers' design limits." Exhibit A, Enclosure 2 at 8.

The LRA supplement provides that the aging management program for containment coatings is "consistent with the recommendations of NUREG-1801 [the GALL Report], Chapter XI, Program XI.S8, Protective Coating Monitoring and Maintenance Program." Exhibit A, Enclosure 2 at 2. It also details how each individual element of the coatings aging management program is consistent with the GALL Report. See, e.g., Exhibit A, Enclosure 2 at 3-7 & 9. Because the containment coatings aging management program included in the LRA supplement

corresponds to that identified in the GALL Report, the LRA supplement provides reasonable assurance that NSPM will manage the aging effect during the renewal period. AmerGen Energy Co., LLC (Oyster Creek Nuclear Generating Station), CLI-08-23, 68 N.R.C. ___, slip op. at 6 (Oct. 6, 2008).

C. The LRA Supplement Has Rendered PIIC Contention 6 Moot

PIIC Contention 6 alleged that the LRA improperly omitted an aging management program for containment coatings. In the LRA supplement, NSPM has specifically addressed the omission alleged by PIIC Contention 6 and included a thorough description of its Protective Coating Monitoring and Maintenance Program. Thus, "the contention of omission, as originally proffered, [has] indeed [been] rendered moot by" NSPM's submission to the NRC of its LRA supplement. AmerGen Energy Co., LLC (License Renewal for Oyster Creek Nuclear Generating Station), CLI-08-28, 68 N.R.C. ___, slip op. at 25 n.72 (Nov. 6, 2008) (holding that a contention which demanded that applicant perform a confirmatory analysis using a conservative methodology was rendered moot after applicant performed a confirmatory analysis using the method called for in the NRC's regulations); see also McGuire, CLI-02-28, 56 N.R.C. at 382-83. Because the challenges raised by PIIC Contention 6 have been rendered moot by NSPM's LRA supplement, this Board should dismiss PIIC Contention 6.

V. PIIC CONTENTION 11 SHOULD BE DISMISSED AS MOOT

A. PIIC Contention 11 Alleged the Omission of Information from the LRA

In admitting PIIC Contention 11, this Board found that the "Application does not…provide any more than [a] brief description of the plan" for FAC aging management. LBP-08-26 at 59. It further remarked that "the Application must contain sufficient information to independently confirm consistency with the GALL Report. Currently, the description of the

AMP in the Application leaves this in question." Id. The Board admitted PIIC Contention 11 as a contention of omission which alleges that "[t]he LRA fails to supply sufficient details of the aging management program for flow accelerated corrosion to demonstrate that its effects will be adequately managed." Id. at 60.

B. The LRA Supplement Includes a Thorough Description of the FAC Aging Management Program Whose Omission Was the Basis for Contention 11

The LRA supplement moots PIIC Contention 11 by: (i) clarifying that the PINGP aging management program for FAC meets the NRC's requirements for referencing and use of a GALL program; and (ii) expanding the description of the FAC aging management program to clearly demonstrate that the PINGP program meets all of the program elements specified in the GALL Report, including the detailed Electric Power Research Institute ("EPRI") guidelines in its report Nuclear Safety Analysis Center ("NSAC")-202L-R3. See Exhibit A, Enclosure 3 at 1-2.

The GALL Report "identifies generic aging management programs that the Staff has determined to be acceptable, based on the experiences and analyses of existing programs at operating plants during the initial license period." AmerGen Energy Co., LLC (Oyster Creek Nuclear Generating Station), CLI-08-23, 68 N.R.C. ___, slip op. at 5 (Oct. 6, 2008) (footnote omitted). The Commission has ruled:

> An applicant for license renewal "may reference the GALL Report … to demonstrate that the programs at the applicant's facility correspond to those reviewed and approved" therein, and the applicant must ensure and certify that its programs correspond to those reviewed in the GALL Report.

Id. at 6 (footnote omitted). The Commission's statement mirrors the instructions in the NRC's Standard Review Plan for Review of License Renewal Applications for Nuclear Power Plants,

NUREG-1800, Rev. 1 (Sept. 2005) ("SRP-LR") at 3.0-2.[2] The Commission has explained that this use of an aging management program identified in the GALL Report (i.e. an applicant's referencing the GALL Report and certifying that its aging management program corresponds to the generic program reviewed in the GALL Report) constitutes reasonable assurance that the applicant will manage the targeted aging effect during the renewal period. Oyster Creek, CLI-08-23, slip op. at 6.

> The Commission has further stated,
>
> > *If the applicant uses a different method for managing the effects of aging for particular SSCs [systems, structures and components] at its plant*, then the applicant should demonstrate to the Staff reviewers that its program includes the ten elements cited in the GALL Report and will likewise be effective. In addition, many plants will have plant-specific aging management programs for which there is no corresponding program in the GALL Report. For each aging management program, the application gives a brief description of the licensee's operating experience in implementing that program.

Id. at 6 (emphasis added).[3] Thus, discussion of the full ten elements of an aging management program is required only if an applicant uses methods to manage aging different from those recommended in the GALL Report.

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[2] The SRP-LR states,

> If an applicant takes credit for a program in the GALL Report, it is incumbent on the applicant to ensure that the plant program contains all the elements of the referenced GALL Report program. In addition, the conditions at the plant must be bounded by the conditions for which the GALL Report program was evaluated. The above verifications must be documented on-site in an auditable form. The applicant should include a certification in the license renewal application that the verifications have been completed and are documented on-site in an auditable form.

SRP-LR at 3.0-2. The SRP-LR and GALL Report were prepared and submitted simultaneously to the Commission for approval, and the Commission approved the issuance of the guidance documents in July 2001. See Memorandum from A. Vietti-Cook to W. Travers, "Staff Requirements – SECY-01-0074 – Approval to Publish Generic License Renewal Guidance Documents" (July 2, 2001) (available at ADAMS Accession No. ML011860168).

[3] The SRP-LR identifies ten essential elements of an effective aging management program, and the GALL Report "describes each aging management program with respect to the ten program elements defined in the SRP-LR." CLI-08-23 at 5-6.

The LRA supplement adds language in Section B.1.1 of the LRA to clarify the consistency of the PINGP programs in the LRA with the GALL Report in the manner specified by the Commission and the SRP-LR. This Section now states, inter alia,

> Where the discussion states that a plant program is (or will be) consistent with the recommendations of NUREG-1801, takes no exceptions to NUREG-1801, and identifies no enhancements, such statements constitute certification that (1) the plant program corresponds to and contains all of the elements of the referenced GALL Report program; (2) the conditions at the plant are bounded by the conditions for which the GALL Report program was evaluated to the extent such conditions are specified in the GALL program description; and (3) verifications have been completed and are documented on site in an auditable form. Therefore, based on this certification, the Aging Management Program identified in the GALL Report is being used.
>
> Where the discussion of an Aging Management Program states that the plant program will be consistent with the recommendations of NUREG-1801, takes no exceptions to NUREG-1801, but identifies enhancements, such statements constitute certification that (1) with those enhancements, the plant program corresponds to and contains all of the elements of the referenced GALL Report program; (2) the conditions at the plant are bounded by the conditions for which the GALL Report program was evaluated to the extent such conditions are specified in the GALL program description; and (3) verifications have been completed and are documented on site in an auditable form. Therefore, based on this certification, the Aging Management Program identified in the GALL Report is being used.
>
> Where the discussion of an Aging Management Program states that the plant program is (or will be) consistent with the recommendations of NUREG-1801 with exception(s), with or without enhancements, such statements constitute certification that (1) with the exclusion of the specific matters identified in each exception, the plant program corresponds to and contains all of the elements of the referenced GALL Report program; (2) the conditions at the plant are bounded by the conditions for which the GALL Report program was evaluated to the extent such conditions are specified in the GALL program description; and (3) verifications have been completed and are documented on site in an auditable form. Therefore, based on this certification, the Aging Management Program identified in the GALL Report is being used, as modified by the exceptions. A justification for each identified exception is provided.

Exhibit A, Enclosure 1 at 1-2. Thus, the LRA supplement explicitly includes the certification required by the SRP-LR and Oyster Creek.

The LRA supplement then addresses the consistency of the PINGP FAC program with the GALL Report guidance. As the LRA supplement indicates, the only exception to the GALL Report is that the FAC program for PINGP implements Revision 3 of NSAC-202L, rather than the Revision 2 that existed when the GALL Report was issued. Exhibit A, Enclosure 3 at 4-6. The LRA includes justification for this one exception:

> NSAC-202L-R3 is the most recent revision of this document and it provides more prescriptive guidance based on the latest industry operating experience. This revision incorporates lessons learned and new technology that has become available since the previous revision which was published in April 1999. Use of the current guideline is an acceptable method to maintain the FAC-susceptible systems at PINGP.

Exhibit A, Enclosure 3 at 3.[4] This justification is supported by the reviews and conclusions of the Staff in other license renewal proceedings that that NSAC-202L-R3 "improves the program" and is, therefore, an acceptable alternative to NSAC-202L-R2 for an adequate aging management program. See, e.g., Safety Evaluation Report Related to the License Renewal of Wolf Creek Generating Station, NUREG-1915 (Oct. 2008), at 3-63 (available at ADAMS Accession No. ML083090483).[5]

Because the FAC program is consistent with the GALL Report with this one exception, NSPM has certified that "(1) with the exclusion of the specific matters identified in each exception, the plant program corresponds to and contains all of the elements of the referenced GALL Report program; (2) the conditions at the plant are bounded by the conditions for which

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[4] The same exception relates to two of the program elements: (1) the scope of the aging management program; and (2) the detection of aging effects.

[5] See also Safety Evaluation Report With Open Items Related to the License Renewal of Three Mile Island Nuclear Station, Unit 1 (March 2009), at 3-47 (available at ADAMS Accession No. ML090710604); Safety Evaluation Report With Open Items Related to the License Renewal of Indian Point Nuclear Generating Unit Nos. 2 and 3 (Jan. 2009), at 3-22 (available at ADAMS Accession No. ML090150571); Safety Evaluation Report Related to the License Renewal of Vogtle Electric Generating Plant, Units 1 and 2 (Nov. 2008), at 3-73 (available at ADAMS Accession No. ML082590322); Safety Evaluation Report With Open Items Related to the License Renewal of Shearon Harris Nuclear Power Plant, Unit 1 (March 2008), at 3-66 (available at ADAMS Accession No. ML080780632).

the GALL Report program was evaluated to the extent such conditions are specified in the GALL program description; and (3) verifications have been completed and are documented on site in an auditable format." Exhibit A, Enclosure 1 at 2. Accordingly, the LRA supplement demonstrates reasonable assurance that NSPM will manage any FAC aging effects during the license renewal period by referencing, and certifying that its FAC aging management program corresponds to, the GALL Report program.

NSPM's clarification of its use of the FAC aging management program identified in the GALL Report is, standing alone, sufficient to resolve PIIC Contention 11. NSPM, nevertheless, has also expanded the description of its FAC aging management program in the LRA supplement to specifically address all ten of the elements for an aging management program identified in Chapter XI Program XI.M17, Flow-Accelerated Corrosion, of the GALL Report. See GALL Report at XI M-61-62.

The program description makes clear that the FAC program is established in accordance with NSAC-202L-R3 (Exhibit A, Enclosure 3, at 1-2), as does the discussion of the program scope (Id. at 2). The detailed guidelines in the 81-page NSAC-202L-R3 are publicly available at ADAMS Accession No. ML082530344.

The review of operating experience for the PINGP FAC Program demonstrates its effectiveness in monitoring the effects of aging. The review "identified no adverse trends or issues with program performance. Wall thinning has been identified, and the associated components replaced, prior to causing any significant impact to safe operation or loss of intended functions…. [Thus,] review of operating experience indicates the PINGP FAC Program is effective in monitoring and detecting degradation and taking effective corrective actions as

needed when acceptance criteria are not met." Exhibit A, Enclosure 3 at 5-6. Accordingly, continued "[i]mplementation of the Flow-Accelerated Corrosion Program provides reasonable assurance that aging effects will be managed such that structures, systems, and components within the scope of this program will continue to perform their intended function(s) during the period of extended operation." Exhibit A, Enclosure 3 at 6.

C. The LRA Supplement Has Rendered PIIC Contention 11 Moot

NSPM has mooted PIIC Contention 11 by including in the LRA supplement (1) clarification that its FAC aging management program is consistent with the GALL Report program and (2) a sufficient description of the FAC program to demonstrate consistency with the GALL Report, which the Commission has held constitutes reasonable assurance that the aging effects will be managed. Oyster Creek, CLI-08-23, slip op. at 6. Thus, the contention of omission has been rendered moot by the LRA supplement. Oyster Creek, CLI-08-28, slip op. at 25 n.72; see also McGuire, CLI-02-28, 56 N.R.C. at 382-83. This Board should, therefore, dismiss PIIC Contention 11.

VI. CONCLUSION

For the reasons stated above, the Board should grant NSPM's Motion to Dismiss PIIC Contentions 6 and 11 as Moot.

CERTIFICATION

As required by 10 C.F.R. § 2.323(b), counsel for NSPM certifies that he has consulted with the other parties in a sincere effort to resolve the issues raised in this motion.

Respectfully Submitted,

/Signed electronically by David R. Lewis/

_____

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Dated: March 23, 2009

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Northern States Power Company's Motion to Dismiss PIIC Contentions 6 and 11 as Moot," dated March 23, 2009, was provided to the Electronic Information Exchange for service on the individuals listed below, this 23rd day of March 2009.

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