

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

William J. Froehlich, Chairman
Dr. Gary S. Arnold
Dr. Thomas J. Hirons

In the Matter of

Northern States Power Co. (formerly Nuclear
Management Company, LLC)

(Prairie Island Nuclear Generating Plant, Units
1 and 2)

Docket Nos. 50-282-LR and 50-306-LR

ASLBP No. 08-871-01-LR-BD01

April 14, 2009

ORDER

(Approving Settlement and Dismissal of Contentions 1, 6, and 11)

On April 3, 2009, pursuant to 10 C.F.R. § 2.338(i), Northern States Power Company (NSPM), a Minnesota corporation, and the Prairie Island Indian Community (PIIC) (collectively, the Parties) filed a joint motion with this Atomic Safety and Licensing Board (the Board) seeking approval of a settlement of Contention 1, Contention 6, and Contention 11.¹ Based on this settlement, the Parties seek dismissal of these three Contentions. The Parties represent that the NRC Staff has reviewed, supports, and consents to the joint motion and settlement.

On December 5, 2008, the Board admitted seven Contentions submitted by the PIIC, including Contentions 1, 6, and 11.² Contention 1 related to the discussion of historic and archaeological resources in the Environmental Report (ER). Contention 6 alleged that the License Renewal Application (LRA) failed to include a plan to manage aging of containment

¹ Joint Motion for Approval of Settlement and Dismissal of PIIC Contentions 1, 6, and 11 (April 3, 2009) [hereinafter Joint Motion].

² See Northern States Power Co. (Prairie Island Nuclear Generating Plant), LBP-08-26, 68 NRC ___ (Dec. 5, 2008).

coatings. Contention 11 alleged that the LRA did not provide sufficient details of the aging management program for flow accelerated corrosion.

On March 4, 2009, NSPM filed an amendment to its ER, which augments the ER's discussion of the archaeological, historical, and cultural resources within and around the Prairie Island Nuclear Generating Plant site and provides additional information about NSPM actions to identify and protect such resources. NSPM has committed to retaining the services of a qualified archaeologist to be "responsible for evaluating any cultural artifacts inadvertently discovered during construction."³ NSPM has committed to revising the procedure for protection of cultural resources to include training for the Site Environmental Coordinator, to identify sensitive areas, and to include additional information to facilitate identification of artifacts.⁴ Additionally, NSPM has committed to performing additional field surveys to better identify areas potentially requiring protection.⁵ A copy of the ER amendment was attached to the motion as Exhibit A.

On March 12, 2009, NSPM filed a supplement to its LRA, which addresses the deficiencies alleged in Contentions 6 and 11. This supplement provides an aging management program for containment coatings, which uses inspections and corrective actions to manage surface coatings.⁶ This program, combined with previously performed calculations, is intended to ensure that coatings could not clog containment sump strainers in the event of a Loss of Coolant Accident.⁷ The supplement also expands the description of the flow accelerated corrosion program to address all ten aging management program elements and makes explicit

³ Revised ER Section 4.16.1.

⁴ Id.

⁵ Revised ER Section 4.16.2.

⁶ Revised LRA Section B2.1.41.

⁷ Id.

the program's consistency with the Generic Aging Lessons Learned (GALL) Report.⁸ A copy of the LRA supplement was attached to the joint motion as Exhibit B.

Following these additions to the ER and LRA, PIIC agreed to withdraw Contentions 1, 6, and 11, provided that both Parties comply with the terms to which they have agreed. A settlement agreement, attached to the joint motion as Exhibit C in accordance with 10 C.F.R. § 2.338(g), set forth this understanding. Accordingly, the Parties requested that the Board approve this settlement and dismiss Contention 1, Contention 6, and Contention 11. The joint motion states that

[d]ismissal of these Contentions is in the public interest because NSPM has taken actions to address the PIIC's concerns, and because the Commission encourages settlement of contested issues in licensing proceedings. 10 C.F.R. § 2.338. As required by 10 C.F.R. § 2.338(g), a proposed consent order is provided as Exhibit D.⁹

PIIC's counsel authorized NSPM to file the joint motion on its behalf. As required by 10 C.F.R. § 2.323(b), counsel for NSPM certified that he consulted with the other parties before filing this motion, and did so with the support of all parties.

Section 2.338(h) provides a list of the required contents of a settlement agreement. We find that the proposed agreement includes all the required components. Consistent with

⁸ Revised LRA Section B2.1.17; see also NUREG-1801, Generic Aging Lessons Learned Report, Rev. 1 (Sept. 2005).

⁹ Joint Motion at 2.

Commission policy to encourage resolution of contested issues in licensing proceedings through settlement, we find dismissal in the public interest. Pursuant to our authority under 10 C.F.R. § 2.338(i), we grant the joint motion and dismiss Contentions 1, 6, and 11.

It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

William J. Froehlich, Chairman
ADMINISTRATIVE JUDGE

/RA/

Dr. Gary S. Arnold
ADMINISTRATIVE JUDGE

/RA/

Dr. Thomas J. Hirons
ADMINISTRATIVE JUDGE

Rockville, Maryland
April 14, 2009

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
NORTHERN STATES POWER COMPANY)
)
) Docket Nos. 50-282-LR
) 50-306-LR
)
(Prairie Island Nuclear Generating Plant,)
Units 1 and 2)
)
(License Renewal))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (APPROVING SETTLEMENT AND DISMISSAL OF CONTENTIONS 1, 6, AND 11) have been served upon the following persons by Electronic Information Exchange.

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DOCKET NOS. 50-282 AND 50-306-LR
LB ORDER (APPROVING SETTLEMENT AND DISMISSAL OF CONTENTIONS 1, 6, AND 11)

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[Original signed by Evangeline S. Ngbea]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 14th day of April 2009