

May 29, 2009

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

Administrative Judge
William J. Froehlich, Chair
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Thomas J. Hirons
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Gary S. Arnold
Atomic Safety and Licensing Board Panel
Mail Stop – T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

In the Matter of
NORTHERN STATES POWER CO.
(Prairie Island Nuclear Generating Plant, Units 1 and 2)
Docket Nos. 50-282-LR and 50-306-LR; ASLBP No. 08-871-01-LR

Dear Administrative Judges:

Pursuant to the Atomic Safety and Licensing Board's ("Licensing Board") February 18, 2009, Memorandum and Order (Prehearing Conference Call Summary and Initial Scheduling Order), slip op. at 2-3, and the telephone conference call held on February 5, 2009, the staff of the U.S. Nuclear Regulatory Commission ("Staff") herein notifies the Licensing Board and the parties that a hearing file has been updated for this proceeding. The hearing file includes materials required to be produced or disclosed pursuant to 10 C.F.R. § 2.1203, as well as the Staff's mandatory disclosures pursuant to 10 C.F.R. § 2.336(b)(1), (2), and (4), and § 2.336(c). Materials in the hearing file may be accessed through the Agencywide Documents Access and Management System ("ADAMS"). An index containing the ADAMS accession number, date, and title or description of each item added to the hearing file since the April 30, 2009 update to the hearing file is appended hereto as Attachment 1.

The hearing file is available via the Electronic Hearing Docket ("EHD"), which may be accessed at the following URL: http://ehd.nrc.gov/EHD_Proceeding/home.asp. The hearing file will be contained in a sub-folder entitled, "Prairie Island Hearing File" in the "Prairie Island_1&2_50-282& 50-306-LR" folder of the EHD.

Pursuant to 10 C.F.R. § 2.336(b)(5), the Staff is producing logs identifying documents withheld under the deliberative process privilege ("Attachment 2"). The Declaration of Brian E. Holian, Attachment 3, formally invokes the deliberative process privilege with respect to the documents identified in Attachment 2. The Staff will preserve and maintain the privileged

documents identified in this log and its previously served logs during the pendency of this proceeding.

On April 30, 2009, the parties agreed that documents withheld under the attorney client privilege or work product doctrine no longer needed to be logged. Accordingly, this hearing file update does not include a log for documents withheld under the attorney client privilege or work product doctrine.

Pursuant to 10 C.F.R. § 2.336(c), attached are the affidavits of Nathan E. Goodman and Richard A. Plasse, Jr., certifying that all relevant materials, identified by the Staff by May 15, 2009, and required by the regulation to be disclosed, have been disclosed and that the disclosures are accurate and complete. Mr. Goodman's and Mr. Plasse's affidavits are Attachments 4 and 5, respectively.

In its February 18, 2009, Memorandum and Order, slip op. at 3, the Board instructed the Staff to report, on the last business day of each month, the Staff's best estimate of the dates that it expects to issue the draft and final versions of Supplemental Environmental Impact Statement ("SEIS") and the Safety Evaluation Report. The final SEIS is currently scheduled to be issued on January 6, 2010. The Safety Evaluation, with open items, is currently scheduled to be issued on June 7, 2009 and the final Safety Evaluation Report is currently scheduled to be issued on October 22, 2009. In addition, the Board asked the Staff to report the dates that the Staff believes that the Advisory Committee on Reactor Safeguards ("ACRS") and its subcommittees will issue their respective letters or reports regarding the Prairie Island License Renewal Application. At this time, the Staff does not know when the ACRS or its subcommittees will issue their letters or reports. When the Staff obtains those dates, the Staff will provide that information in its monthly report.

The Staff is, however, unable to provide an estimated date for issuance of the draft SEIS that would be meaningful. The Staff recently forwarded portions of the draft SEIS to the Prairie Island Indian Community (PIIC) for review in accordance with the provisions of the Memorandum of Understanding (MOU), dated June 17, 2008, between the NRC and the PIIC. Pursuant to the MOU, representatives of the PIIC will be coming to NRC headquarters for a writing session, at which those representatives of the PIIC will meet with the Staff to discuss the draft document. The date for the writing session has not been finalized. The draft SEIS will, of course, issue some time after the writing session. The PIIC has been patient, cooperative, and responsive regarding the scheduling of the writing session. The lack of a date for issuance of the draft SEIS is no way a reflection on the PIIC; it is simply a function of the process set forth in the MOU.

Finally, the Board ordered the Staff to update the Milestones page on the Commission's web site regarding the Prairie Island License Renewal. The Staff has updated the website; it includes the dates discussed above and currently provides the date of issuance of the draft SEIS as "To Be Determined." The information in the Milestones page is current as of this date.

Respectfully,

/Signed (electronically) by/

Maxwell C. Smith

Counsel for NRC Staff

Enclosures: May 2009 Hearing File Index
May 2009 Deliberative Process Privilege Log
Declaration of Brian E. Holian
Affidavit of Nathan E. Goodman
Affidavit of Richard A. Plasse, Jr.

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NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
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NORTHERN STATES POWER CO.) Docket Nos. 50-282-LR/ 50-306-LR
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(Prairie Island Nuclear Generating Plant) ASLBP No. 08-871-01-LR-BDOI
Units 1 and 2)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing NRC Staff's Letter Transmitting Hearing File; Attachment 1 (Hearing File Index); Attachment 2 (Privilege Log); Attachment 3 (Declaration of Brian E. Holian), dated May 29, 2009; Attachment 4 (Affidavit of Nathan E. Goodman), dated May 29, 2009; and Attachment 5 (Affidavit of Richard A. Plasse, Jr.) dated May 29, 2009, have been served upon the following by the Electronic Information Exchange, this 29th day of May 2009:

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