

May 27, 2009

EA-09-010

Mr. Timothy J. O'Connor
Site Vice President
Monticello Nuclear Generating Plant
Northern States Power Company, Minnesota
2807 West County Road 75
Monticello, MN 55362-9637

SUBJECT: NOTICE OF VIOLATION – MONTICELLO NUCLEAR GENERATING PLANT
NRC INSPECTION REPORT NO. 05000263/2009009 (DRS)

Dear Mr. O'Connor:

This refers to the inspection conducted on November 25, 2008 through February 2, 2009, to review your request to medically condition a Monticello Nuclear Generating Plant operator's senior reactor operator (SRO) license. During the inspection, two apparent violations of U.S. Nuclear Regulatory Commission (NRC) requirements were identified. Details regarding the apparent violations were provided in NRC Inspection Report No. 05000263/2009008(DRS) dated March 17, 2009.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violations identified in the report by either attending a Predecisional Enforcement Conference or by providing a written response before we made our final enforcement decision. In a letter dated April 16, 2009, you provided your response to the apparent violations.

Based on the information developed during the inspection and the information that you provided in your response, the NRC has determined that two violations of NRC requirements occurred. The violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the subject inspection report.

On September 11, 2008, you submitted NRC Form 396 for renewal of an SRO's license certifying that the applicant met the medical requirements of American National Standards Institute/American Nuclear Society (ANSI/ANS) 3.4-1983. We renewed the SRO's license based on the NRC Form 396 only requesting a corrective lenses license restriction. On November 25, 2008, we received a license restriction change request for the same SRO to add a "Must Take Medication as Prescribed to Maintain Medical Qualifications" license restriction. During our review of the second licensing action, we determined that the SRO had notified the station's medical staff on July 8, 2004, that he began taking medication for a potentially disqualifying medical condition.

Your failure to notify the NRC of the change in the operator's medical condition within 30 days of July 8, 2004, was a violation of 10 CFR 50.74(c), which requires the licensee to notify the appropriate Regional Administrator within 30 days of a permanent disability or illness of an SRO. As a result of inaccurate information in the renewal request, we renewed the SRO license without a restriction for the medical condition. The incomplete and incorrect information in the renewal application was material to the NRC because it had the ability to and did incorrectly influence an NRC licensing action. This was a violation of 10 CFR 50.9. You determined that the reason for the violations was that the station did not have a process to ensure that regulatory changes in reporting requirements for licensed operators were evaluated for inclusion into applicable processes and procedures.

The NRC entrusts licensed operators with the safe operation of nuclear power plants and these individuals must be capable of performing their assigned duties under normal, abnormal, and emergency conditions. The NRC requires facility licensees to closely monitor the physical condition and general health of licensed operators in an effort to minimize the potential for the sudden incapacitation of a licensed operator. Minimum medical qualification requirements for licensed operators are provided in the ANSI standard and are used by the NRC, in part, to determine if specific restrictions should be included in an operator's license. A licensee's failure to notify the NRC of medical conditions, which may require the inclusion of specific restrictions in an operator's license, may result in an unnecessary risk to safe plant operations. The NRC also expects licensees to provide information in a timely and prompt manner. With regard to licensed operators, the NRC requires that licensees provide information regarding changes to the medical condition of a licensed operator within 30 days.

The inspection results indicated that you had information regarding the SRO's change in medical condition as early as July 2004 and did not provide that information to the NRC in a prompt and timely manner. The inspection results further indicated that you did not provide complete and accurate information regarding the SRO's medical condition in September 2008, when you requested renewal of the SRO's license. As a result, the NRC did not have an opportunity to include restrictions on the SRO's license in 2004 and issued an incorrect renewal of the SRO's license in 2008. Therefore, the violations have been collectively categorized, in accordance with the NRC Enforcement Policy, as a Severity Level III problem.

In your response, you acknowledged the violations and the circumstances surrounding the violations. You also requested that we consider whether the violations should be characterized as Severity Level IV violations, based upon apparent similar violations cited by the NRC at different NRC licensees. Although we had previously reviewed and discussed with your staff the similarities and differences between each of these examples and the violations that are the subject of this letter, we reevaluated the specific facts associated with each of the violations. In consultation with the Offices of Enforcement and Nuclear Reactor Regulation, we have determined that our characterization of the violations as a Severity Level III problem is consistent with Supplement VII.C of the NRC Enforcement Policy.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$65,000 is considered for a Severity Level III problem. Because your facility has not been the subject of escalated enforcement actions within the last two years, the NRC considered whether credit was warranted for Corrective Action in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. The NRC determined that credit was warranted for your corrective actions which included, but were not limited to, providing the correct information to the NRC and requesting an amendment to the SRO's license, performing an extent of condition evaluation, developing a process to ensure that regulatory changes in reporting requirements for licensed operators are evaluated for inclusion into applicable processes and procedures, requiring new personnel to the license maintenance program to complete a newly created job familiarization guide, revising the checklist for the Medical Review Officer meeting and requiring the site nurse to attend the meeting, and revising the process to require a review/evaluation of any medical change that is reported by a licensed operator.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, to not propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III problem constitutes escalated enforcement action, which may subject you to increased inspection effort.

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken to correct the violations and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in your letter L-MT-09-039 dated April 16, 2009. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

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 respond, 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, if you choose to respond, should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted

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invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). The NRC also includes significant enforcement actions on its Web site at (http://www.nrc.gov/reading_rm/doc_collections/enforcement/actions/).

Should you have any questions, please contact Mr. Hironori Peterson, Chief, Operations Branch, at (630) 829-9707.

Sincerely,

/RA/

Mark A. Satorius
Regional Administrator

Docket No. 50-263
License No. DPR-22

Enclosure:
Notice of Violation

cc w/encl: D. Koehl, Chief Nuclear Officer
Manager, Nuclear Safety Assessment
P. Glass, Assistant General Counsel
Nuclear Asset Manager, Xcel Energy, Inc.
J. Stine, State Liaison Officer, Minnesota Department of Health
R. Nelson, President
Minnesota Environmental Control Citizens
Association (MECCA)
Commissioner, Minnesota Pollution Control Agency
R. Hiivala, Auditor/Treasurer,
Wright County Government Center
Commissioner, Minnesota Department of Commerce
Manager - Environmental Protection Division
Minnesota Attorney General's Office
B. Swatzke, Plant Manager
M. Walter, Plant Training Manager
T. Blake, Manager, Regulatory Affairs

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Regional Administrator

Docket No. 50-263
License No. DPR-22
Enclosure:
Notice of Violation

cc w/encl: D. Koehl, Chief Nuclear Officer
Manager, Nuclear Safety Assessment
P. Glass, Assistant General Counsel
Nuclear Asset Manager, Xcel Energy, Inc.
J. Stine, State Liaison Officer, Minnesota Department of Health
R. Nelson, President
Minnesota Environmental Control Citizens
Association (MECCA)
Commissioner, Minnesota Pollution Control Agency
R. Hiivala, Auditor/Treasurer,
Wright County Government Center
Commissioner, Minnesota Department of Commerce
Manager - Environmental Protection Division
Minnesota Attorney General's Office
B. Swatzke, Plant Manager
M. Walter, Plant Training Manager
T. Blake, Manager, Regulatory Affairs

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1 OE concurrence per N. Hilton received via e-mail from Gerald Gulla on May 20, 2009.

2 NRR concurrence per M. Ashley received via e-mail from Gerald Gulla on May 20, 2009.

Letter to Mr. Timothy J. O'Connor from Mr. Mark A. Satorius dated May 27, 2009

SUBJECT: NOTICE OF VIOLATION – MONTICELLO NUCLEAR GENERATING PLANT
NRC INSPECTION REPORT NO. 05000263/2009009 (DRS)

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NOTICE OF VIOLATION

Northern States Power Company
Monticello Nuclear Generating Plant

Docket No. 50-263
License No. DPR-22
EA-09-010

During an NRC inspection conducted on November 25, 2008 through February 2, 2009, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

1. Title 10 CFR 50.74(c) requires that each licensee notify the appropriate Regional Administrator within 30 days of the permanent disability or illness, as described in 10 CFR 55.25, of a licensed operator or a senior operator.

Contrary to the above, from July 8, 2004, until November 25, 2008, a period greater than 30 days, the licensee failed to notify the Region III Regional Administrator of a permanent disability or illness of a licensed senior operator. Specifically, the licensee was informed on July 8, 2004, that the operator was taking prescribed medication for hypertension, a permanent disability or illness.

2. Title 10 CFR 50.9 requires, in part, that information provided to the Commission by an applicant for a license or by a licensee or information required by statute or by the Commission's regulations, Orders, or license conditions to be maintained by the applicant or the licensee shall be complete and accurate in all material respects.

Title 10 CFR 55.23 requires, in part, that to certify the medical fitness of the applicant, an authorized representative of the facility licensee shall complete and sign NRC Form 396, "Certification of Medical Examination by Facility Licensee."

The NRC Form 396, when signed by an authorized representative of the facility licensee, certifies that a physician conducted a medical examination of the applicant and that the guidance contained in American National Standards Institute/American Nuclear Society (ANSI/ANS) 3.4-1983, "Medical Certification and Monitoring of Personnel Requiring Operator Licenses for Nuclear Power Plants" was followed in conducting the examination and making the determination of medical qualification.

The ANSI/ANS 3.4-1983, Section 5.3, provides, in part, that the presence of certain medical conditions, unless adequately compensated by the methods specified in Subsections 5.3.1 through 5.3.9, shall disqualify the individual.

Contrary to the above, on September 11, 2008, the facility licensee provided information to the NRC that was not complete and accurate in all material respects. Specifically, the licensee submitted NRC Form 396 for renewal of a senior reactor operator's license and the NRC Form 396 certified that the applicant met the medical requirements of ANSI/ANS 3.4-1983 with the single restriction that the applicant was required to wear corrective lenses when performing licensed duties. However, in July 2004, the senior

reactor operator was prescribed medication to adequately compensate for hypertension, a disqualifying medical condition. The certification by the senior licensee facility representative was material to the NRC because the NRC relied upon this certification to renew the senior reactor operator's license pursuant to 10 CFR Part 55 when the license should have been modified to note the additional restriction that the senior reactor operator was required to take medication as prescribed to maintain his qualification.

This is a Severity Level III problem (Supplement VII).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in your letter L-MT-09-039 dated April 16, 2009. 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," include the EA number, 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 facility that is the subject of this Notice, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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 27th day of May 2009