

July 2, 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)	)	

**JOINT MOTION FOR APPROVAL OF SETTLEMENT  
AND DISMISSAL OF PIIC CONTENTION 2**

Pursuant to 10 C.F.R. § 2.338(i), Applicant Northern States Power Company, a Minnesota corporation (“NSPM”) and the Prairie Island Indian Community (“PIIC”) (collectively, the “Parties”) hereby move this Atomic Safety and Licensing Board (the “Board”) for approval of a settlement of Contention 2. Based on this settlement, the Parties seek dismissal of the Contention. The NRC Staff has reviewed, supports, and consents to this Joint Motion and settlement.

On December 5, 2008, the Board admitted seven contentions submitted by the PIIC, including Contention 2. Contention 2 related to whether the Severe Accident Mitigation Alternatives (“SAMA”) analysis included in NSPM’s License Renewal Application adequately considered site restoration costs for the PIIC property, the value of that property, and the effects on the Treasure Island Resort and Casino.

NSPM has provided to the PIIC a sensitivity analysis to address the PIIC concerns animating Contention 2 without requiring the disclosure of the PIIC’s highly confidential

financial information. The PIIC has agreed to withdraw Contention 2, based upon the terms to which the Parties have agreed. A settlement agreement, attached hereto as Exhibit A in accordance with 10 C.F.R. § 2.338(g), sets forth this understanding.

Accordingly, the Parties request that the Board approve this settlement and dismiss Contention 2. Dismissal of this Contention 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 B.

PIIC's counsel has authorized NSPM to file this Joint Motion on its behalf.

Respectfully Submitted,

/Signed electronically by David R. Lewis/

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David R. Lewis  
Matias F. Travieso-Diaz  
PILLSBURY WINTHROP SHAW PITTMAN LLP  
2300 N Street, NW  
Washington, DC 20037-1122  
Tel. (202) 663-8474

Counsel for Northern States Power Co.

Dated: July 2, 2009

## **Exhibit A**

**SETTLEMENT AGREEMENT AMONG THE PRAIRIE ISLAND INDIAN  
COMMUNITY AND NORTHERN STATES POWER CO.  
REGARDING CONTENTION 2**

This Settlement Agreement is made and entered into as of July 2, 2009, by and among the Prairie Island Indian Community ("PIIC") and Northern States Power Co., a Minnesota corporation ("NSPM"), hereinafter referred to collectively as "Parties."

WHEREAS, Nuclear Management Company, LLC, now NSPM, submitted a License Renewal Application ("LRA"), dated April 11, 2008, to the U.S. Nuclear Regulatory Commission ("NRC"), seeking renewal of its license to operate Prairie Island Nuclear Generating Plant, Units 1 and 2 ("the Plant");

WHEREAS, on August 18, 2008, the PIIC petitioned to intervene as a party in the NRC proceeding to renew the operating license of the Plant, and raised a contention relating to whether the Severe Accident Mitigation Alternatives ("SAMA") analysis included in the LRA adequately considers site restoration costs for the PIIC property, the value of that property, and the effects on the Treasure Island Resort and Casino ("PIIC Contention 2");

WHEREAS, by Memorandum and Order dated December 5, 2008, the Atomic Safety and Licensing Board (the "Board") admitted PIIC as a party to the license renewal proceeding and admitted, as limited and reworded by the Board, PIIC Contention 2;

WHEREAS, the members of the Community and their ancestors, have lived on Prairie Island for countless generations, establishing a unique relationship between the Community and this land that is difficult, if not impossible, to address adequately within the limited scope of monetizing risk for purposes of a SAMA analysis;

WHEREAS, the PIIC desires to keep information regarding its income, finances, and property values confidential;

WHEREAS, the Parties have discussed how to resolve Contention 2 without disclosing confidential PIIC information, and PIIC and NSPM both desire to work cooperatively and amicably to resolve and settle PIIC Contention 2;

WHEREAS, NSPM has provided to the PIIC a sensitivity analysis to address the PIIC concerns underlying PIIC Contention 2 without requiring the disclosure of the PIIC's highly confidential financial information;

NOW, THEREFORE, in consideration of the premises and mutual promises herein, PIIC and NSPM agree as follows:

1. NSPM has performed and provided to the PIIC a sensitivity analysis to address the concerns animating PIIC Contention 2 without requiring the disclosure of any additional confidential financial or property information from the PIIC.

2. PIIC agrees that the sensitivity analysis which it has received from NSPM satisfactorily resolves its concerns relating to the sufficiency of the SAMA analysis included in the LRA.

3. PIIC agrees to withdraw PIIC Contention 2, and to take such other actions as may be reasonably necessary to obtain its dismissal.

4. NSPM agrees that the PIIC Replacement and Reconstruction Appraisal, which to date has not been provided to or reviewed by any NSPM employee, will be returned to the PIIC without disclosure to any NSPM employee; and that any copies in the possession of NSPM's outside counsel or outside consultants will be destroyed.

5. PIIC consents to the dismissal of Contention 2 and agrees to take such other actions as may be reasonably necessary to obtain their dismissal.

6. The Parties agree to file a joint motion seeking a Consent Order from the Board approving this Settlement Agreement and dismissing PIIC Contention 2.

7 With regard to this Settlement Agreement, NSPM and PIIC expressly waive any and all further procedural steps before the Board or any right to challenge or contest the validity of any order entered by that Board in accordance with this Settlement. The Parties also expressly waive all rights to seek judicial review or otherwise to contest the validity of any order entered by the Board, so long as such order is fully consistent with each provision of this Settlement Agreement.

8 NSPM and PIIC agree that an order entered by the Board in accordance with this Settlement Agreement will have the same force and effect as an order entered after a full hearing.

9 NSPM and PIIC acknowledge this Settlement Agreement resolves the matters identified in this Settlement Agreement that are required to be adjudicated.

10 This Settlement Agreement shall be effective upon the last signature dated below. In the event that the Board disapproves this Settlement Agreement, it shall be null and void.

IN WITNESS WHEREOF, the Parties have caused this Settlement Agreement to be signed by their respective counsel on the dates indicated below.



July 2, 2009

David R. Lewis

Date

PILLSBURY WINTHROP SHAW PITTMAN, LLP

Counsel for Northern States Power Co. - Minnesota



July 2, 2009

Philip R. Mahowald

Date

GENERAL COUNSEL

The Prairie Island Indian Community

## **Exhibit B**

# PROPOSED CONSENT ORDER

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.

(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

July \_\_, 2009

## **ORDER**

(Approving Settlement and Dismissal of Contention 2)

On July 2, 2009, the Northern States Power Co. and the Prairie Island Indian Community (collectively, the "Parties"), with the NRC Staff's support and consent, moved for an order approving settlement and dismissal of Contention 2. In accordance with 10 C.F.R. § 2.338(g), the Parties forwarded the settlement agreement and proposed order to this Board.

Consistent with 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 Contention 2.

It is so ORDERED.



THE ATOMIC SAFETY  
AND LICENSING BOARD

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William J. Froehlich, Chairman  
ADMINISTRATIVE JUDGE

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Dr. Gary S. Arnold  
ADMINISTRATIVE JUDGE

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Dr. Thomas J. Hirons  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
July \_\_, 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)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of “Joint Motion for Approval of Settlement and Dismissal of PIIC Contention 2” dated July 2, 2009, was provided to the Electronic Information Exchange for service on the individuals listed below, this 2nd day of July, 2009.

Administrative Judge  
William J. Froehlich, Esq., Chair  
Atomic Safety and Licensing Board  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
Email: wjfl@nrc.gov

Administrative Judge  
Dr. Gary S. Arnold  
Atomic Safety and Licensing Board  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
Email: gxa1@nrc.gov

Administrative Judge  
Dr. Thomas J. Hirons  
Atomic Safety and Licensing Board  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
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Secretary  
Att’n: Rulemakings and Adjudications Staff  
Mail Stop O-16 C1  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
secy@nrc.gov; hearingdocket@nrc.gov

Office of Commission Appellate Adjudication  
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/Signed electronically by David R. Lewis/

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David R. Lewis