



DOCKET NO. 50-409 and 72-046

In reply, please refer to LAC-14341

ATTN: Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Re: La Crosse Boiling Water Reactor
Independent Spent Fuel Storage Installation - NRC License No. DPR-45
Response of Dairyland Power Cooperative to Apparent Violations Referenced in
NRC Inspection Report 07200024/2014001 (DNMS) & 05000409/2014008 (DNMS),
EA-15-026

We are submitting with this letter, Dairyland's written response to the apparent violations described in the NRC Inspection Report 07200024/2014001 (DNMS) and 05000409/2014008 (DNMS) (the "Inspection Report").

I want to confirm Dairyland's and my personal and professional commitment to safeguarding public safety, and ensuring safe and reliable operations at our ISFSI and plant site. Transparency and a culture of compliance are a top priority that starts in our Boardroom. These matters continue to have our full attention and you can expect continued cooperation as we work to resolve these matters.

As described in our response, Dairyland does not contest that the three apparent violations described in the Inspection Report occurred. We believe that the two apparent violations involving the revision to the Emergency Plan as applicable to the LACBWR Plant were inadvertent based on a misunderstanding of the NRC regulations applicable to modifications of an Emergency Plan that can be effectuated without prior NRC review. That is an issue common to a number of other licensees that are in various modes of permanent shutdown status, and we ask that the severity of those apparent violations be reduced to non-cited, level IV violations. The other apparent violation involved the failure to conduct an annual exercise of the LACBWR Plant Emergency Plan in 2011, the year immediately preceding the removal of all of the spent fuel from the Plant to the ISFSI. We request that it be recognized as an isolated violation and reduced in severity.

With respect to one of the non-cited violations in the Inspection Report, we request that the non-cited violation with respect to staff augmentation capability be dismissed, because we do not believe the allegations constitute a violation. We do not contest the other two non-cited violations in the Inspection Report.

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As a result of the Inspection Report, DPC has initiated an extent of condition review of operations at LACBWR and the ISFSI.

If you need any additional information, please contact me.

Sincerely,



Barbara Nick
President and CEO

BAN:LSP:tco

cc: Robert J Orlikowski, Chief, Materials Control, ISFSI, & Decommissioning Branch
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Dairyland Power Cooperative Response to the Apparent Violations in Inspection Report No. 07200046/2014001(DNMS) and 05000409/2014008(DNMS); EA-15-026

Licensee Dairyland Power Cooperative (“Dairyland”) provides the following written responses to Apparent Violations in Inspection Report No. 07200046/2014001 and 05000409/2014008. The response follows the format requested in the Inspection Report.

With respect to apparent violations 07200046/2014001-01 and 05000409/2014008-01 and 07200046/2014001-02 and 05000409/2014008-02, (dealing with revisions to the LACBWR Emergency Plan and related staffing changes), Dairyland asserts that it promptly took corrective action when advised by the NRC staff that the Emergency Plan could not be revised in the manner it was without prior NRC approval, and requests that the severity level for those violations be reduced to Level IV. With respect to apparent violation No. 07200046/2014001-03 and 05000409/2014008-03 (dealing with the failure to hold an Emergency Plan exercise for the Plant in 2011), Dairyland does not contest the violation but asks the NRC to view the violation as isolated in nature and consider a reduction in severity level.

Dairyland does not contest non-cited violations No. 07200046/2014001-04 and 05000409/2014008-04 (Emergency Plan implementing procedures) and No. 07200046/2014001-06 and 05000409/2014008-06 (failure to time submit Decommissioning Funding Plan). With respect to non-cited violation No. 07200046/2014001-05 and 05000409/2014008-05, (dealing with staff augmentation capability under the Emergency Plan), Dairyland contests that non-cited violation and asks that it be dismissed.

Each violation is separately addressed below.

Violation No. 07200046/2014001-01 and 05000409/2014008-01: Non-Compliance with Emergency Plan Staffing Requirements

Dairyland provides the following information regarding this apparent violation:

1) *The reason for the apparent violation.*

On September 19, 2012, the final NAC-MPC canister with all of the remaining LACBWR spent fuel was placed on the LACBWR ISFSI pad. Having removed all spent fuel from the Fuel Element Storage Well and the Plant¹ and safely stored all of the fuel at the ISFSI, the LACBWR management judged it to be no longer necessary to maintain 24-hour operator staffing in the Plant. This decision was consistent with the requirements stated in the Technical Specification for LACBWR (Amendment 69), which states that the facility organization shall be as follows:

¹ In this Response, “Plant” refers to the licensed LACBWR facility except for the ISFSI, and includes the reactor building and the turbine building.

- Each on-duty shift shall be composed of at least one Certified Fuel Handler and one qualified Control Room Operator *when fuel is stored in the Fuel Element Storage Well.*
- A qualified Control Room Operator shall be within visual and/or audio distance of the Control Room annunciators *when fuel is in the Fuel Element Storage Well.*
- An individual qualified in radiation protection procedures shall be on site when there is a potential for release of radioactive materials. At least one additional Operator and one Health Physics Technician shall be on *site when spent fuel or a spent fuel shipping cask is being handled or when any evolutions are being conducted in or above the Fuel Element Storage Well.*

LACBWR management followed the staffing (monitoring) requirements stipulated in the Technical Specifications when it discontinued staffing by a Control Room Operator during backshifts and weekends, but did not recognize and first revise the continuous monitoring commitment in the then-applicable Emergency Plan² before putting the reduced staffing levels in place.

2) *The corrective steps that have been taken and the results achieved.*

Dairyland took the following immediate steps when the NRC called this Emergency Plan issue to LACBWR's attention:

- On October 26, 2012, Dairyland reinstated backshift and weekend staffing by Operation personnel to provide continuous monitoring.
- Dairyland required all decommissioning and dismantlement work performed in the Plant to be conducted only during times when adequate staffing was available to address any potential contamination release. In the LACBWR management's judgment, since the fuel had all been removed from the Plant, there would have been no feasible way for a material release from the Plant buildings.

3) *The corrective steps that have been taken to avoid further violations.*

To bring Dairyland into full compliance with regulations, the following was achieved:

- LACBWR initiated corrective action immediately to address the allegation and other related issues.
- The Emergency Plan was revised to reflect that the fuel has been completely removed from the Plant and moved to the ISFSI and to focus on the events related only to the ISFSI.
- The Emergency Plan Implementing Procedures were reviewed and revised, re-titled, or cancelled, consistent with and in parallel with the revision of the Emergency Plan.

² The Emergency Plan in place in September, 2012 was Emergency Plan Rev. 31, May 2011.

4) *Full compliance was or will be achieved.*

As a result of the above listed actions, the following occurred:

- As of October 26, 2012, continuous monitoring was reinstated (24/7 manning of the Control Room) in the Plant in accordance with Section 1.0 of Emergency Plan (Revision 31). This staffing continued until the Emergency Plan (Revision 32) was reviewed by the LACBWR Operations Review Committee and the Safety Review Committee and approved in accordance with 10CFR 50.54(q), which Dairyland believed did not require prior NRC approval for this change. (This method of review was subsequently identified by the NRC as not having been made in accordance with regulation. Refer to Apparent Violation No. 07200046/2014001-02 and 05000409/2014008-02, discussed below, for details).
- On October 23, 2012, Dairyland issued a standing directive stating that all work within the LACBWR Plant was to be performed only during normal work week shift hours, when an Operator would be present. In case of an emergency, radiation protection personnel were to be called in to provide any necessary RP support. This requirement remains in place.
- Dairyland CAR 2013-121 required the performance of an Apparent Cause Evaluation which recommended or endorsed the above listed actions. The CAR was the tracking mechanism that ensured all corrective actions were acceptably completed.
- Revision 32 of the Emergency Plan was internally reviewed by the LACBWR Safety Review Committee ("SRC") and Operating Review Committee ("ORC") and approved on October 29, 2012.
- Supporting Emergency Plan Implementing Procedures were reviewed, revised and approved by Dairyland on November 13, 2012.

Dairyland considered the issue of continuous staffing to be fully resolved with the issuance of the Emergency Plan procedures on November 13, 2012. A review of LACBWR records confirmed that no dismantlement activities were conducted on the backshift or weekends during the period from September 19, 2012 to October 26, 2012. The majority of Plant work activities performed during this period consisted of demobilization of equipment associated with the cask storage campaign. That work required RP support, and that support was provided.

Summary:

LACBWR took immediate actions to re-staff the back shift and weekend Plant Operator coverage as required by Emergency Plan Revision 31 (to ensure compliance with the requirements of that Emergency Plan pending its revision), and took speedy and effective actions to identify and address the issue via the LACBWR corrective action system. Based upon these actions, LACBWR requests that this potential Level III Violation be reduced to a Level IV non-cited violation. This action would be consistent with recent NRC Level IV non-cited violations issued on the same topic at the Kewaunee Power Station (Failure to maintain an

acceptable on-shift staff) and at the San Onofre Nuclear Generating Station (Elimination of 39 ERO positions from the Emergency Plan).³

Violation No. 07200046/2014001-02 and 05000409/2014008-02: Reduction in Effectiveness of Emergency Plan Without NRC Approval

LACBWR provides the following information regarding this apparent violation:

1) *The reason for the apparent violation.*

Subsequent to completion of the transfer of all spent fuel to the LACBWR ISFSI, the Emergency Plan was revised to become an "ISFSI only" plan (Revision 32) without any requirements related to the LACBWR Plant. This was considered to be justified because of the LACBWR staff conclusion that potential emergency initiating events for the Plant had been effectively eliminated. Revision 32 of the Emergency Plan was internally reviewed by the SRC and ORC and approved on October 29, 2012. The changes in Revision 32 were not considered a reduction in effectiveness of the Emergency Plan since all potential initiating events at the Plant had been eliminated. This opinion by the Licensing Engineer was stated in the LACBWR 10 CFR 50.54 (q) Review for the Emergency Plan Revision 32 and accepted by Dairyland management.

Although all 12 of the Plant's Emergency Action Limits ("EALs") had been eliminated, the NRC did not agree that LACBWR had correctly interpreted the regulatory definition of "reduction in effectiveness" as applicable to Revision 32 of its Emergency Plan. The NRC informed LACBWR of its disagreement on the prior review requirement for the Emergency Plan change in late December, 2012.

2) *The corrective steps that have been taken and the results achieved.*

LACBWR submitted the Emergency Plan revisions applicable to the Plant to the NRC for review and approval in 2013 and supplied evaluations that supported the changes. After further discussion between LACBWR staff and the NRC staff, the NRC approved Emergency Plan Revision 34 on September 8, 2014. Revision 34, among other changes, allowed the deletion of monitoring by Operators during backshifts and weekends.

³ NRC Inspection Report No. 05000305/2013011(DNMS) – Kewaunee Power Station (ADAMS Accession No. ML14069A225), and San Onofre Nuclear Generating Station – NRC Baseline Inspection Report (05000361/2013501) and (05000362/2013501) (ADAMS Accession No. ML14085A502).

3) *The corrective steps that will be taken to avoid further violations.*

LACBWR has gained clarity on the process of Emergency Plan revision submittals. All subsequent revisions to its Emergency Plan that qualify as a reduction in effectiveness will be submitted to the NRC for approval prior to implementation.

4) *Full compliance was or will be achieved.*

LACBWR's current Emergency Plan has been reviewed and approved by the NRC.

Summary:

Although the definition of "reduction in effectiveness" as applied to an Emergency Plan was misinterpreted by Dairyland in applying 10 CFR 50.54 (q), the elimination of the 12 "Plant-related" EALs was appropriate for the condition of the Plant at the time when the Emergency Plan was revised to Revision 32. Considering the swift and effective action taken to identify and resolve these issues within the LACBWR corrective action system, it is requested that this potential Level III Violation be reduced to a Level IV non-cited Violation.

This action would be consistent with recent NRC Level IV non-cited violations issued on the same topic at the Kewaunee Power Station (Failure to obtain prior NRC approval for certain changes made to the KPS Emergency Plan) and the San Onofre Nuclear Generating Station (Failure to obtain prior NRC approval before implementing Emergency Plan changes). (See footnote 3 above).

Violation No. 07200046/2014001-03 and 05000409/2014008-03: Failure to Perform Drills and Exercises as Required by the Emergency Plan

LACBWR provides the following information regarding this apparent violation:

1) *The reason for the apparent violation.*

In accordance with Emergency Plan Revision 31 that was in effect in 2011, an Emergency Plan exercise should have been conducted at the Plant in December 2011. LACBWR has recognized that this exercise should have been performed in 2011, but that it was not. Dairyland has reviewed the error with the Plant Licensing Engineer and Emergency Plan Coordinator (now retired) who was then responsible for scheduling Emergency Plan exercises, and with the then-Plant Manager (also now retired). In the discussion with the Licensing Engineer, he recalled that during his revising of the Emergency Plan to include the new LACBWR ISFSI, he had remained focused on the application of the Emergency Plan at the ISFSI and failed to schedule an exercise for the Plant in 2011. This was an obvious error, and Dairyland assumes all responsibilities for the oversight. The LACBWR Plant did not conduct an Emergency Plan exercise in 2012 or 2013 because the then-effective Emergency Plan (Revision 32) did not require an exercise at the Plant.

- 2) *The corrective steps that have been taken and the results achieved.*

The missed 2011 Emergency Plan exercise is not a recoverable action. Revision 32 through Revision 34 of the Emergency Plan did not require an annual exercise at the Plant. All required exercises of the Emergency Plan for the ISFSI have been timely completed.

- 3) *The corrective steps that will be taken to avoid further violations.*

Revision 34 of the Emergency Plan was approved by the NRC in 2014, which formally eliminated the need for any further exercises of the Emergency Plan for the LACBWR Plant.

- 4) *Full compliance was or will be achieved.*

With the NRC approval of Revision 34 and the performance of an Emergency Plan exercise at the ISFSI on December 16, 2014, regulatory requirements have been fulfilled.

Summary:

It is apparent that due to oversight, LACBWR erred in not performing an Emergency Plan exercise in December 2011. In subsequent years LACBWR was obligated to perform Emergency Plan exercises only at the ISFSI, and has timely done so. Based upon these circumstances, LACBWR requests that the NRC view this violation as isolated in nature and consider a reduction in its Severity Level.

Violation No. 07200046/2014001-04 and 05000409/2014008-04: Emergency Plan Implementing Procedures not in accordance with Emergency Plan

LACBWR accepts the non-cited violation as described in the Inspection Report.

Violation No. 07200046/2014001-05 and 05000409/2014008-05: Staff Augmentation Capability not in accordance with Emergency Plan.

LACBWR provides the following information regarding this non-cited violation:

- 1) *The reason for the non-cited violation.*

LACBWR does not believe that this allegation involves a violation of regulation. The Emergency Plan's implementing procedures define the process for call-out and the individuals by name and telephone number who are responsible for providing augmented radiation protection support in times of declared emergencies.

For example, EPP-20.02 Section 4.3.1 requires the Plant/ISFSI Supervisor to ensure that an ISFSI Event Response Surveillance is performed following an off-normal,

accident, or natural phenomena event at the ISFSI. Section 4.3.4 defines the responsibilities of Qualified Radiation Protection Personnel who would perform radiation surveys of the ISFSI site, including a detailed radiological survey of the VCCs per EPP-20.04, ISFSI Emergency Dose Rate Assessment and Survey.

EPP-20.03, ISFSI Communications System, Attachment 2, ISFSI Emergency Phone List, Item 9, identifies the current Qualified Radiation Protection personnel by name and telephone information. All individuals listed resided within 1 hour of the ISFSI site, were qualified to perform the required surveillance, and agreed to respond to an emergency at the ISFSI. On a monthly basis, LACBWR tests the call-out procedure by contacting the on-call technicians and verifying that they are reachable at the listed numbers and that they understand that they are on call in case of necessary action under the Emergency Plan.

Clearly, a formal process was documented via Emergency Plan procedures that demonstrated LACBWR's ability to supplement ISFSI staff in a timely manner that would enable a qualified individual adequate time to perform a thorough surveillance of the ISFSI.

2) *The corrective steps that have been taken and the results achieved.*

Since it is believed that no violation has occurred, this section is not applicable.

3) *The corrective steps that will be taken to avoid further violations.*

Since it is believed that no violation has occurred, this section is not applicable.

4) *Full compliance was or will be achieved.*

Since it is believed that no violation has occurred, this section is not applicable.

Summary:

It has been demonstrated that LACBWR had a documented process for providing radiation protection coverage to the ISFSI in response to an emergency. The established and documented process would enable one of the radiation protection technicians, who all live within one hour of the plant, to show up at LACBWR in adequate time to perform the required surveillance. The claim that there was no defined process or system to provide ISFSI staff augmentation including radiation protection coverage within 4 hours could not be validated.

LACBWR initiated CAR No 2014-025 and conducted a review of its call-out process. The CAR was utilized to manage and control the review. The evaluation of the process produced the following enhancements:

- The process for developing and maintaining an RPT crew to perform an ISFSI Event Response Surveillance is being incorporated into EPP-20.04 and includes the development

of a separate Training Instruction.

- Formally enlist, train and qualify members for an ISFSI Event Response Surveillance crew. This entails a work contract, and an On-Call schedule.
- Establish and maintain an On-Call Emergency list of eligible RPTs capable of responding to an emergency at the LACBWR ISFSI and completing an ISFSI Event Response Surveillance within 4 hours.

The review was conducted to enable Dairyland to identify a small number of process improvements that should improve the overall system.

In light of these actions, LACBWR requests that this Level IV non-cited violation be dismissed.

Violation No. 07200046/2014001-06 and 05000409/2014008-06: Failure to Timely Submit Decommissioning Funding Plan

LACBWR accepts the non-cited violation as described in the Inspection Report.

The end

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