



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION III  
799 ROOSEVELT ROAD  
GLEN ELLYN, ILLINOIS 60137

January 22, 1979

MEMORANDUM FOR: J. H. Sniezek, Director, Division of Fuel Facilities  
and Materials Safety Inspection, IE

FROM: James G. Keppler, Director, Region III

SUBJECT: WISCONSIN PUBLIC SERVICE CORPORATION (KEWAUNEE)  
RECOMMENDED ORDER IMPOSING CIVIL PENALTIES

We have reviewed the licensee's response dated January 2, 1979 to our amended Notice of Violation and Notice of Proposed Imposition of Civil Penalties. The licensee has not shown any error in our Notice of Violation nor given sufficient reason in our view as to why the civil penalties should not be imposed.

Attached for Headquarters use is the draft response to the licensee including an Order Imposing Civil Penalties in the amount of \$7,000.

*James G. Keppler*  
James G. Keppler  
Director

Attachment: Draft response  
letter w/Enclosures

cc w/attachment:  
S. E. Bryan, XOOS ✓

Docket No. 50-305

Wisconsin Public Service  
Corporation  
ATTN: Mr. F. Ziemer  
President  
Post Office Box 1200  
Green Bay, WI 54305

Gentlemen:

This is in response to your letter dated January 2, 1979, in response to the Amended Notice of Violation and Amended Notice of Proposed Imposition of Civil Penalties sent to you with our letter dated December 7, 1978.

The December 7, 1978 letter concerned two items of noncompliance found during a Nuclear Regulatory Commission inspection on May 3-5 and 18, and June 5, 1978, of the radiation protection program at your Kewaunee Nuclear Power Plant.

After careful consideration of your January 2, 1979 response and for the reasons given in Appendix A to this letter, we conclude that the items of noncompliance did occur as described in the Amended Notice of Violation and that no adequate reasons have been stated as to why the penalties for these items should not be imposed as described in the Amended Notice of Proposed Imposition of Civil Penalties. Accordingly, we hereby serve the enclosed Order on Wisconsin Public Service Corporation, imposing Civil Penalties in the amount of Seven Thousand Dollars (\$7,000).

We have considered your statement that you ". . . do not agree that management lacks concern for the safety of employees." To date we have not made such an accusation, the seriousness of which would have demanded stronger and more immediate enforcement action than the proposed civil penalty.

Regarding the final point of your letter, licensee events are one factor considered in licensee comparisons. However, such comparisons are a byproduct, not the purpose, of event investigations. The purpose of investigations and our inspection program is to determine whether licensees satisfy their legal requirements and safety obligations to employees and the public. Accurate documentation of such determinations is given high priority by the NRC. We believe our documentation of the May 3-5 and 18 and June 5, 1978 inspection is an accurate account of the May 2, 1978 personnel exposure event as described by licensee employees and management.

We will review your corrective actions regarding the items of noncompliance during future inspections.

Sincerely,

John G. Davis  
Acting Director

Enclosures:

1. Appendix A - Comments
2. Order Imposing Civil Penalties

APPENDIX A

Wisconsin Public Service Corporation  
Kewaunee Nuclear Power Plant  
Docket No. 50-305

After careful consideration of the information provided in your response of January 2, 1979, to the Amended Notice of Violation and the Amended Notice of Proposed Imposition of Civil Penalties dated December 7, 1978, we have the following comments:

1. You state in your January 2, 1979 letter that entry into the reactor cavity was made under the optional provision of procedure RC-HP-35 which requires a continuous escort by experienced health physics personnel. You have further noted that in the absence of preparing an RWP document prior to the entry, the issue is what constitutes a continuous escort. You further state your view as to the general manner in which the objective of the procedure could be satisfied. In the entry into the reactor cavity on May 2, 1978, there was no hand in hand accompaniment into the area, the pre-monitoring of the area was not comprehensive to determine the extent of radiation levels in the area being entered nor did the individual entering have any monitoring equipment. Therefore, your letter provides no evidence that there was continuous escort or other provision to inform the employee entering the reactor cavity at the time of entry of the radiation conditions therein, which is a basic purpose of this procedure.

2. As a matter of clarification, the first item of apparent noncompliance in Appendix A of our December 7, 1978 letter cited the failure to adhere to procedure RC-HP-35. The citation did not suggest a "procedural inadequacy," as implied in your response.
  
3. Your answer to the amended Notice of Proposed Imposition of Civil Penalties contends that no civil penalty should be imposed for item 2 of the amended Notice of Violation. You note several of the criteria for civil penalty action, and your item f. paraphrases item g. of the criteria. This states "those cases where an item of noncompliance resulted in or contributed to the cause of the seriousness of an accident or incident." In the case of item 2 of the Notice of Violation, the failure to provide an individual with a survey meter when he entered a high radiation area not adequately surveyed contributed to the seriousness of the situation, and therefore warrants a civil penalty. Also, as stated in the criteria, civil penalties may be assessed for other situations which the Commission deems necessary and appropriate. In this case, the civil penalty is intended to focus on the problem area of entry into an area generally known to have potential for high radiation levels where actions to determine these levels and minimize exposure were not adequate. We

have determined civil penalties to be appropriate for those actions which were in noncompliance with the regulatory requirements, and which, if properly carried out, likely would have limited entry into the area in question, thus reducing the exposure received by the individual.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	Docket No. 50-305
	)	License No. DPR-43
Wisconsin Public Service	)	
Corporation	)	
Post Office Box 1200	)	
Green Bay, WI 54305	)	

ORDER IMPOSING CIVIL PENALTIES

I

Wisconsin Public Service Corporation, Green Bay, Wisconsin, (the "licensee"), is the holder of License No. DPR-43 (the "license"), issued by the Nuclear Regulatory Commission (the "Commission"), which authorizes the licensee to operate the Kewaunee Nuclear Power Plant located in Kewaunee County, Wisconsin in accordance with the conditions specified therein. The license was issued on December 21, 1973, and has a termination date of August 6, 2008.

II

A special inspection of certain of the licensee's activities under the license was conducted on May 3-5, 18 and June 5, 1978. As a result of this inspection, it appears that the licensee has not conducted its activities in full compliance with the requirements of the licensee's

Technical Specifications for operation of the reactor. A written Notice of Violation and Notice of Proposed Imposition of Civil Penalties in the amount of \$10,000 was served upon the licensee by letter dated July 19, 1978 (incorrectly dated June 19, 1978). The licensee responded August 10, 1978. In view of the licensee's response, an amended Notice of Violation was served upon the licensee by letter dated December 7, 1978, appended hereto as Appendix I, specifying the items of noncompliance, in accordance with 10 CFR 2.201. An amended Notice of Proposed Imposition of Civil Penalty dated December 7, 1978, was served concurrently upon the licensee in accordance with Section 234 of the Atomic Energy Act of 1954, as amended, (42 USC 2282), and 10 CFR 2.205, incorporating by reference the Notice of Violation, which stated the nature of the items of noncompliance and the provision of the NRC regulations with which the licensee was in noncompliance.

An answer from the licensee to the amended Notice of Violation and to the amended Notice of Proposed Imposition of Civil Penalties dated January 2, 1979 is appended hereto as Appendix II.

### III

Upon consideration of the answer received and the statements of fact, explanation, and argument of mitigation contained therein, the Director of the Office of Inspection and Enforcement has determined that the



penalty proposed for the items of noncompliance designated in the amended Notice of Violation should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended, (42 USC 2282), and 10 CFR 2.205, IT IS HEREBY ORDERED THAT:

The licensee pay a civil penalty in the total amount of Seven Thousand Dollars (\$7,000). The penalty may be paid by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement. Payment shall be due and payable within twenty (20) days of the date of receipt of this Order.

V

The licensee may, within twenty (20) days of the receipt of this Order, request a hearing. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the

licensee to request a hearing within twenty (20) days of the date of receipt of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

- (a) whether the licensee was in noncompliance with the Commission's regulations in the respect set forth in the Notice of Violation attached hereto as Appendix I; and
- (b) whether, on the basis of such items of noncompliance the Order should be sustained.

FOR THE NUCLEAR REGULATORY COMMISSION

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John G. Davis  
Acting Director  
Office of Inspection  
and Enforcement

Dated at Bethesda, Maryland  
this \_\_\_\_ day of January, 1979