



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

Docket No. 50-298

June 8, 1982

MEMORANDUM FOR: T. M. Novak, Assistant Director
for Operating Reactors, DL

FROM: Byron Siegel, Project Manager
Operating Reactors Branch #2, DL

SUBJECT: Proposed Civil Penalty for Nebraska Public Power
District (Cooper Nuclear Station)

As the licensing Project Manager for Cooper Nuclear Station, I was invited to attend the Commissioners closed briefing on May 28, 1982 pertaining to the proposed civil penalty against the Licensee, Nebraska Public Power District (NPPD), for not having their complete early warning system in place by March 1, 1982 when they had previously informed us by letter dated February 8, 1982 that it was fully installed and operational.

After attending the briefing I felt a need to express my opinion and concerns pertaining to several aspects of this issue as addressed and in particular to the size and classification of the proposed civil penalty. In the remainder of this memorandum I will attempt to give my thoughts with the hope they will be conveyed to the Commissioners and Mr. DeYoung to be taken into consideration in determining the final penalty.

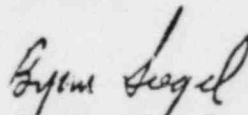
My primary concern relates to the proposed size of the fine under consideration. It appears to me that the licensee is being given no credit for past performance which has been above average. There are many specific aspects of their performance that could be cited but I believe their overall record with regard to: 1) receiving no previous civil penalty; 2) SALP ratings; 3) the number of completed unresolved safety issues, generic issues, multiplant issues, and TMI action plan items; and 4) the status of these generic and action plant items not yet completed speaks for itself. I think we (NRC) should give credit to licensees with good performance records. One way of doing this would be to cite to the licensee the penalty they would normally receive for a violation and then reduce it based on their past performance. In this particular case imposing a \$400,000 fine provides no incentive for the licensee to sustain their past level of performance. To severely penalize the licensee for this mistake after nine years of above average performance does not appear to me to be effective regulation. In my opinion a fine of about \$100,000 coupled with discussions with the licensee's management to prevent a reoccurrence and actions against the engineering technician that lied would be more appropriate.

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During the briefing and at last year's SALP meeting, Region IV expressed a concern related to the degree of dependence of the licensee upon the plant superintendent. The Region would like to see more plant responsibilities assumed by other personnel within the organization to lessen the impact in the event the plant superintendent should be incapacitated or leave. The responsibility for installation of the early warning system was assumed by the engineering and licensing departments in corporate headquarters and it is my understanding this was the first time they have assumed sole responsibility for any NRC related requirement. I am afraid that imposition of a \$400,000 penalty will have an adverse effect with regard to these departments at corporate headquarters assuming responsibilities of this type in the future. I think there will be a reluctance on their part which would once again place the burden on the plant superintendent. This would be counter productive to the Region's attempt to encourage more involvement by others within the organization.

Another concern I have pertains to a discussion during the briefing regarding the honesty of the NPPD management and in particular the licensing personnel identified as individuals D-2, D-4, and D-5 on the NPPD organizational chart (Enclosure). As the Licensing Project Manager for Cooper Nuclear Station for the past 18 months, I have had almost daily contact with the NPPD licensing staff and have found them to be extremely honest, cooperative, and responsive. Over the years Cooper has had many project managers and I know their response would be similar to mine, if asked. Since time did not permit the investigator from Region I to complete his presentation to the Commissioners, I do not believe the honesty of the NPPD personnel, other than the engineering technician D-6, was clearly established. I believe NPPD can be faulted for poor judgment and management practices but not of willfully providing false statements. Therefore, I do not agree with the categorization of this as a Severity Level II violation. Although I realize the examples provided for the various severity levels in the regulation are not all encompassing, I do not think this violation fits a Class II level of severity compared to the examples cited. However, under the Severity Level III examples "Serious dereliction of duty on the part of the personnel involved in licensed activities" is cited which I believe more appropriately fits this violation.

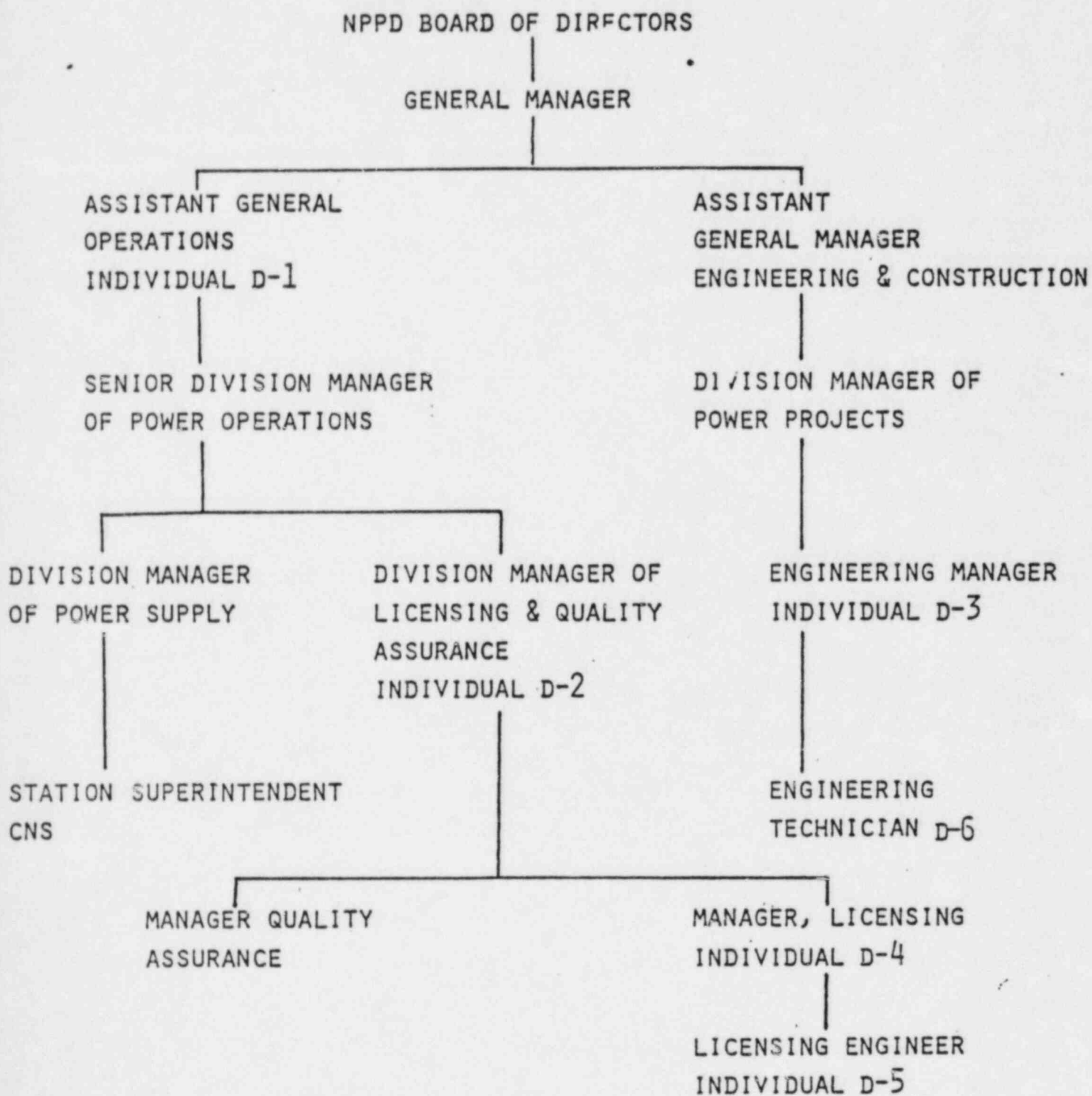
In summation I would like to say that I hope my comments are taken into consideration when the final penalty is determined. As a result of discussions with staff members, both at Headquarters and in the Region, I know there are others who are also concerned about the size of this proposed penalty but have not come forward.



Byron Siegel, Project Manager
Operating Reactors Branch #2, DL

Enclosure

NEBRASKA PUBLIC POWER DISTRICT - ORGANIZATION



MAY 28, 1982