

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20545

PDR-016
Cross reference
50-298

November 5, 1982

J. Michael McGarry, III, Esquire
Debevoise & Liberman
1200 Seventeenth Street, N.W.
Washington, DC 20036

IN RESPONSE REFER
TO FOIA-82-413

Dear Mr. McGarry:

This is in response to your letter dated September 2, 1982, in which you requested, pursuant to the Freedom of Information Act, copies of all documents prepared by the NRC, its Staff and consultants regarding the August 9, 1982 letter, the Notice of Violation and Order relative to the NRC's determination or proposed imposition of (1) the civil penalty set forth in the Notice of Violation and (2) the proposed requirement regarding conduct of a management audit as set forth in the Order. Of particular importance to NPPD are those documents which set forth the factual and legal bases for the NRC determinations relating to the enforcement action including:

1. Transcripts of Commission meetings wherein the enforcement action was discussed, including the Commission meeting of May 18, 1982.
2. Information provided by the Regional Offices which form the basis for the NRC staff recommendations to the Commission regarding this enforcement action.
3. Documents which set forth and support the NRC Staff's recommendations to the Commission regarding this enforcement action.

In response to your request, and as arranged between Mr. Malcolm Philips of your office and Mr. Frank W. Karas of my staff, copies of the released documents were placed in the NRC Public Document Room (NRC PDR), 1717 H Street, N.W., Washington, DC 20555 on September 24, 1982. At that time Mr. Karas stated that other documents were being reviewed for public release and that you would be advised when our review is completed. Some additional documents were placed in the NRC PDR on October 5, 1982, and your office was informed by telephone.

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Appendix A lists the documents subject to your request that are being released in their entirety and are now on file in the NRC PDR. Appendix B lists those documents that are being withheld in their entirety. Appendix C lists those documents that are being withheld in part. Segregable portions of these documents have been placed in the PDR.

Documents B1 through B11 and a portion of document C4 contain information which constitutes pre-decisional advice, opinions, and recommendations of the staff. This information is being withheld from public disclosure pursuant to Exemption (5) of the Freedom of Information Act (5 U.S.C. 552(b)(5)) and 10 CFR 9.5(a)(5). Release would inhibit the flow of information within the NRC regarding matters subject to ongoing deliberations.

Appendix C documents C1 and C2 are investigatory records compiled for law enforcement purposes which contain the identity of confidential sources. Minor portions of these documents are being withheld from public disclosure to protect these identities pursuant to Exemption (7)(D) of the Freedom of Information Act (5 U.S.C. 552(b)(7)(D)) and 10 CFR 9.5(a)(7)(iv) of the Commission's regulations, because disclosure of the information would disclose the identity of a confidential source.

Document C3 is a transcript of a closed Commission meeting. This transcript is exempt from public disclosure in its entirety pursuant to Exemptions 5 and 7 of The Government in the Sunshine Act (5 U.S.C. 552b(c)(5) and (7)) and 10 CFR 9.104(a)(5) and (7), because the discussion focused upon potential sanctions of an ongoing enforcement action. However, the Commission is releasing significant portions of this transcript which primarily reflect a discussion of the facts concerning the proposed notice of violation. The remainder continues to be withheld because release would inhibit Commission-staff discussions regarding appropriate sanctions (Exemption 5), would interfere with an ongoing enforcement proceeding (Exemption 7), or in anticipation of litigation (Exemption 10). Some portions are being withheld because release would divulge proprietary information (Exemption 4), or would constitute a clearly unwarranted invasion of privacy (Exemption 6). Therefore, the information in the transcript is being withheld from public disclosure pursuant to Exemption (3) of the Freedom of Information Act (5 U.S.C. 552(b)(3)) and 10 CFR 9.5(a)(3) of the Commission's regulations.

The documents described above, with exempt portions deleted, are being placed in the NRC PDR.

Pursuant to 10 CFR 9.9 and 9.15 of the Commission's regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The persons responsible for the denial of document B1 and documents C1 and C2 are the undersigned and Mr. John T. Collins, Regional Administrator, Region IV. The person responsible for the denial of documents B2 through B10 and portions of documents C3 and C4 is Mr. Samuel J. Chilk, Secretary of the Commission. The person responsible for the denial of document B11 is Mr. Leonard Bickwit, General Counsel of the Commission.

The denials by Mr. John T. Collins and myself may be appealed to the Commission's Executive Director for Operations within 30 days from the receipt of this letter. As provided in 10 CFR 9.11, any such appeal must be in writing, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision." The denials by Mr. Samuel J. Chilk and Mr. Leonard Bickwit may be appealed within 30 days to the Commission and should be addressed to the Secretary of the Commission.

This completes action on your request.

Sincerely,

J. M. Felton, Director
Division of Rules and Records
Office of Administration

Enclosures: As stated

Appendix A

The documents listed below are released in their entirety:

- A 1. 3/12/82 Preliminary Notification of Event of Unusual Occurrence - PNO-IV-82-10 (1 page)
- A 2. 3/12/82 Letter to J. M. Pilant from J. T. Collins re: NRC Findings Resulting from the Cooper Nuclear Station Emergency Preparedness Exercise (2 pages)
- A 3. 4/23/82 Memo for John T. Collins from J. E. Gagliardo re: Summary of the April 12 Meeting with Nebraska Public Power District (2 pages)
- A 4. 5/26/82 Memo for Brian K. Grimes from John T. Collins re: 10 CFR 50.54(s)(2) Letter to Nebraska Public Power District (5 pages)
- A5. 5/28/82 Note to Richard DeYoung from Vicki Harding re: Commission Meeting on Cooper Enforcement Action (5 pages)
- A6. 6/16/82 Memo for Chairman Palladino et. al. from William J. Dircks re: Proposed Civil Penalty Action (6 pages)
- A7. 6/21/82 Memo for Chairman Palladino et. al. from William J. Dircks re: Proposed Civil Penalty Action (1 page)
- A8. 7/7/82 Memo for Samuel J. Chilk from Jessica H. Laverty re: Commissioner Roberts' Dissenting View in Cooper (10 pages)
- A9. 7/21/82 Memo for Leonard Bickwit, Jr., from Samuel J. Chilk re: Proposed Civil Penalty Action (1 page)
- A10. 8/9/82 Office of Inspection and Enforcement Notification of Significant Enforcement Action re: Proposed Imposition of Civil Penalty - \$300,000 Order Modifying License Effective Immediately (1 page)
- A11. 8/9/82 Letter to H. B. Kasman from Richard C. DeYoung re: Notice of Violation and Proposed Imposition of Civil Penalty; Order Modifying License (Immediately Effective) (16 pages)
- A12. 8/9/82 Letter to D. W. Hill from John T. Collins re: NRC Inspection and Investigation Reports (29 pages)
- A13. 8/9/82 NRC Staff Proposed to Fine Nebraska Public Power District \$300,000 (2 pages)
- A14. 8/24/82 Letter to D. W. Hill from Richard C. DeYoung re: Order Expanding Time to Reply to Order Modifying License (4 pages)
- A15. Undated Statement by Commissioner Roberts - Draft of the Commissioner's separate views concerning NPPD enforcement action (3 pages)

Appendix B

The documents listed below are withheld in their entirety:

- B1. 3/16/82 Memo for James Lieberman from John T. Collins re: Nebraska Public Power District, Cooper Nuclear Station Proposed Civil Penalty (16 pages)
- B2. 5/13/82 Memo for Chairman Palladino et. al. from William J. Dircks re: Proposed Civil Penalty Action (38 pages)
- B3. 6/3/82 Memo for Chairman Palladino et. al. from William J. Dircks re: Proposed Civil Penalty Action (8 pages)
- B4. 6/15/82 Notation Vote Response Sheet to Samuel J. Chilk from Commissioner Asselstine re: Proposed Civil Penalty Action (3 pages)
- B5. 6/27/82 Notation Vote Response Sheet to Samuel J. Chilk from Commissioner Gilinsky re: Proposed Civil Penalty Action (1 page)
- B6. 6/29/82 Notation Vote Response Sheet to Samuel J. Chilk from Chairman Palladino re: Proposed Civil Penalty Action (4 pages)
- B7. 7/1/82 Memo for Chairman Palladino et. al. from James K. Asselstine re: Suggested Modification to Staff's Proposed Cooper Civil Penalty Action (6 pages)
- B8. 7/20/82 Memo for William J. Dircks from Samuel J. Chilk re: Proposed Civil Penalty Action (4 pages)
- B9. 7/30/82 Memo for Chairman Palladino et. al. from William J. Dircks re: Proposed Civil Penalty Action w/enclosed Revised Enforcement Action (16 pages)
- B10. 5/27/82 Memo for Commissioner Gilinsky from legal assistant William Manning re: Analyses of Proposed Staff Action (1 page)
- B11. 7/30/82 Memo for Samuel J. Chilk from Martin G. Malsch, Deputy General Counsel re: Proposed Commission Statement on Cooper Civil Penalty Action (3 pages)

Appendix C

The documents listed below are partially withheld:

- C1. Various Dates Set of documents re: Cooper Early Warning System (55 pages)
- C2. 4/19/82 Identity of Individuals Interviewed (1 page)
- C3. 6/1/82 Principal Correspondence Control from Chilk to Dircks re: Req. Review of Closed Meeting Transcript - Commission Discussion of Enforcement Action (101 pages)
- C4. 6/8/82 Memo for William J. Dircks from Samuel J. Chilk re: Staff Requirements - Discussion of Enforcement Action (1 page)

March 12, 1982

PRELIMINARY NOTIFICATION OF EVENT OR UNUSUAL OCCURRENCE -- PNO-IV-82-10

This preliminary notification constitutes EARLY notice of events of POSSIBLE safety or public interest significance. The information is as initially received without verification or evaluation, and is basically all that is known by NRC staff on this date.

FACILITY: Nebraska Public Power District
Cooper Nuclear Station
Docket No. 50-298

Licensee Emergency Classification:
___ Notification of Unusual Event
___ Alert
___ Site Area Emergency
___ General Emergency
X Not Applicable

SUBJECT: Early Warning System Operability

The licensee reported in a letter to the NRC Regional Administrator, Region IV dated February 8, 1982, that the Early Warning System (EWS) for Cooper Nuclear Station had been installed and was operational.

The EWS was described in a letter from the licensee to NRR, dated June 30, 1981, as consisting of 9 fixed sirens, 32 volunteer firemen using mobile sirens, and 6 sheriffs' cruisers.

On March 11, 1982, NRC inspectors determined that 6 of the 32 mobile sirens were not available for immediate use nor were they capable of being installed on vehicles in a timely manner.

The licensee was informed that the above findings were an apparent violation of 10 CFR, Part 50, Appendix E.

The licensee agreed to immediately implement a contingency procedure to ensure adequate public notification, if required, until the EWS is proven operable.

A Confirmatory Action Letter containing the actions required to bring the EWS to its described operability, was transmitted to the licensee on March 12, 1982. These actions will be completed by March 20, 1982.

This item was identified by an NRC inspector concurrent with the NRC review of the licensee's emergency preparedness exercise.

A press release is being issued by Region IV. No press release is planned by the licensee.

Cooper is a Boiling Water Reactor.

CONTACT: C. Hackney, RIV, 728-8188, T. Westerman, RIV, 728-8145

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H. ST. <u>715</u>	MNBB <u>720</u>	Phillips <u>11:05a</u>	E/W _____	Willste _____	Landow _____	
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Comm. Gilinsky	AEOD			RES _____		
Comm. Bradford	PA	Air Rights			MAIL:	
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Comm. Roberts	ELD			NSAC _____	ADM: Doc. Mgt. Br.	
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TWesterman/dsm	G. Madsen	JGagliardo	3/12/82	3/1/82	3/1/82
7/12/82	3/12/82	3/12/82			

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FAXED TO HQ FOR BROADCAST - 3/12/82

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UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
611 RYAN PLAZA DRIVE, SUITE 1000
ARLINGTON, TEXAS 76012

March 12, 1982

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Docket: 50-298

Nebraska Public Power District
ATTN: Mr. J. M. Pilant
Division Manager, Licensing
and Quality Assurance
P. O. Box 499
Columbus, NE 68601

Gentlemen:

This letter is to confirm the agreements reached between Mr. W. C. Jones, Assistant General Manager for Operations; others of your staff; Mr. J. T. Collins, Regional Administrator, Region IV; and other members of the Nuclear Regulatory Commission staff on March 11, 1982, following the exit interview to discuss NRC findings resulting from the Cooper Nuclear Station Emergency Preparedness Exercise.

We understand that you intend to take corrective action relative to the Early Warning System as stated in the following:

Required Action

1. The licensee shall make 31 early warning system mobile siren units operable (installed on a vehicle or ready for immediate (5 minutes) installation), with parts on order for the remaining unit. Each unit shall be functionally tested on the vehicle for which it was intended.
2. The licensee shall provide an analysis of the minimum number of mobile siren units (in addition to the fixed sirens) necessary for emergency notification, for each of the following areas: Peru, Brownville, Nemaha, Shubert, Rockport, and Watson.
3. The licensee shall provide revised route maps to reflect the minimum number of necessary mobile sirens identified in item 2 above.
4. The licensee shall develop and implement procedures or methods and provide necessary training to assure the following:
 - a. that for each area in item 2 above, primary and alternate individuals responsible for emergency notification are identified for each route, this list is to be maintained current;

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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March 12, 1982

- b. that each primary or alternate individual identified in item 4.a will receive positive notification of the necessity to warn the public; and
 - c. that no less than the minimum number of mobile siren units for each of the areas identified in item 2 will be continuously available for dispatch.
5. The licensee shall implement methods to assure that the 32 mobile siren units remain operable, including periodic maintenance and testing.

Agreed Upon Date of Completion

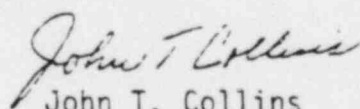
Items 1, 4, and 5 shall be accomplished and reported to the NRC by March 20, 1982. A plan and schedule to accomplish items 2 and 3 shall be reported to the NRC by March 20, 1982.

Failure to complete the above required actions by the agreed upon date will result in NRC considerations of appropriate enforcement action.

We further understand that you have implemented a contingency procedure to assure timely public notification, should an event occur prior to the completion of the required actions identified in this letter.

If our understanding of your planned actions described above is not in accordance with your actual plans and actions being implemented, please contact this office by telephone (817) 465-8100, within 24 hours.

Sincerely,



John T. Collins
Regional Administrator

cc:
L. C. Lessor, Superintendent
Cooper Nuclear Station
P. O. Box 98
Brownville, NE 68321