

October 17, 1995

Ms. Denise Homer, Area Director
Bureau of Indian Affairs
Minneapolis Area Office
331 South 2nd Avenue
Minneapolis, MN 55401-2241

Dear Ms. Homer:

Thank you for your recent letter updating us on the status of workplan items developed by the Bureau of Indian Affairs (BIA) and Prairie Island Dakota Tribal representatives regarding activities and actions for follow-up with a number of Federal agencies, including the Nuclear Regulatory Commission (NRC). We have reviewed the tasks and actions listed under NRC and have the following comments:

1. The NRC did decline to sign the proposed Memorandum of Understanding (MOU) discussed at the February 28, 1995, meeting. This position was discussed with BIA on several occasions and with BIA and Tribal representatives at an April 4, 1995, meeting. At that time, Tribal representatives asked if NRC would instead consider a much simplified, two-party agreement between the Prairie Island Dakota Community and the NRC. This issue, as well as whether NRC would consider opening up its Policy Statement on Cooperation With States at Commercial Nuclear Power Plants and Other Nuclear Production and Utilization Facilities to include the Tribal government, were forwarded to NRC's Office of State Programs for resolution as policy issues. The NRC staff continues with its evaluation prior to developing a position on these requests. The decision may require Commission action.
2. The NRC believes that as a result of the April 4, 1995, meeting with the Prairie Island Dakota Community and BIA representatives, a working relationship has been established between the Prairie Island Dakota Community and the NRC such that Tribal concerns and interest in regulatory issues can be communicated and addressed. Primary points of contact were established for this purpose. As an example, the NRC briefed Tribal representatives on issues and events leading up to the loading of the first TN-40 cask with spent fuel at the Prairie Island plant.
3. With regard to the issue of pre-project environmental data, we indicated to Tribal representatives that such data are available in the Environmental Impact Statement that was prepared in support of the application to license the Prairie Island plant. A copy of this report was provided to the Environmental Protection Agency and is available at the local public document room, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

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- 4. On the question of involvement in the licensee's Emergency Action Level (EAL) classification, 10 CFR 50, Appendix E, Section IV(B), states in part, "These emergency action levels shall be discussed and agreed on by the applicant and State and local governmental authorities and approved by the NRC. They shall also be reviewed with the State and local governmental authorities on an annual basis." NRC representatives informed Northern States Power Company of the Tribal community's interest in EAL discussions, and we understand that a Tribal representative was invited to attend the annual meeting.

Your letter also requests our attendance at what is termed the "next MOU meeting" on November 3, 1995. I will be attending that meeting as the NRC representative and plan to clarify the descriptions of NRC positions and actions described in the "MOU Followup" enclosure to your September 27, 1995, letter. Since the NRC has chosen not to sign the multi-agency MOU, however, NRC may not attend subsequent MOU meetings, but deal with regulatory issues of interest to the Tribe through the communications channels that have recently been established. If you have any questions in this regard, or if I can be of further assistance, please contact this office.

Sincerely,

Roland M. Lickus, Chief
State and Government Affairs

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