



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION IV

611 RYAN PLAZA DRIVE, SUITE 400  
ARLINGTON, TEXAS 76011-8064

JUN - 1 1993

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MEMORANDUM FOR: James Lieberman, Director, Office of Enforcement  
FROM: James L. Milhoan, Regional Administrator  
SUBJECT: RECOMMENDED ORDER IMPOSING CIVIL PENALTY - NEBRASKA PUBLIC  
POWER DISTRICT (EA 93-030)

I am recommending the issuance of the enclosed Order Imposing Civil Monetary Penalty to Nebraska Public Power District. The basis for this recommendation is described in detail in the appendix to the Order. Please contact Gary Sanborn for clarification or additional information.

*James L. Milhoan*  
James L. Milhoan  
Regional Administrator

Enclosures:

- 1. Draft Order Imposing Civil Monetary Penalty
- 2. NPPD's April 29, 1993 letter

(NOT FOR PUBLIC RELEASE WITHOUT APPROVAL OF THE DIRECTOR, OE)

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION

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REGION IV

611 RYAN PLAZA DRIVE, SUITE 400  
ARLINGTON, TEXAS 76011-8064

Docket 50-298  
License DPR-46  
EA 93-030

**DRAFT**

Nebraska Public Power District  
ATTN: Guy Horn, Nuclear Power  
Group Manager  
P.O. Box 499  
Columbus, Nebraska 68602-0499

SUBJECT: ORDER IMPOSING CIVIL MONETARY PENALTIES - \$200,000

This refers to your letter dated April 29, 1993 in response to the Notice of Violation and Proposed Imposition of Civil Penalties (Notice) sent to you by our letter dated March 30, 1993. Our letter and Notice described violations of 10 CFR 50.9 and 10 CFR Part 50, Appendix B, Criterion XVI. To emphasize NPPD's need to improve its problem identification and resolution programs as well as its need to assure that information provided to the NRC is complete and accurate in all material respects, civil penalties of \$100,000 for each of the violations was proposed.

In your response, you admitted the violations but requested that the NRC reconsider the penalties based on a number of factors you described in Attachment 2 to your letter. A summary of the reasons for your request for mitigation is contained in the enclosed Order.

After consideration of your request for mitigation of the penalties, we have concluded for the reasons given in the appendix to the enclosed Order Imposing Civil Monetary Penalties that the full amount of the penalties should be imposed by Order. Accordingly, we hereby serve the enclosed Order on Nebraska Public Power District, imposing civil monetary penalties in the amount of \$200,000. The NRC will review the effectiveness of your corrective actions during future inspections.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice", a copy of this letter and the enclosure will be placed in the NRC's Public Document Room.

Sincerely,

James H. Sniezek  
Deputy Executive Director for  
Nuclear Reactor Regulation, Regional Operations  
and Research

Enclosure: As Stated

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HANCOCK

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CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

cc w/enclosure:

Nebraska Public Power District  
ATTN: G. D. Watson, General Counsel  
P.O. Box 499  
Columbus, Nebraska 68602-0499

Cooper Nuclear Station  
ATTN: John M. Meacham, Site Manager  
P.O. Box 98  
Brownville, Nebraska 68321

Nebraska Department of Environmental  
Control  
ATTN: Randolph Wood, Director  
P.O. Box 98922  
Lincoln, Nebraska 68509-8922

Nemaha County Board of Commissioners  
ATTN: Richard Moody, Chairman  
Nemaha County Courthouse  
1824 N Street  
Auburn, Nebraska 68305

Nebraska Department of Health  
ATTN: Harold Borchert, Director  
Division of Radiological Health  
301 Centennial Mall, South  
P.O. Box 95007  
Lincoln, Nebraska 68509-5007

Kansas Radiation Control Program Director

**DRAFT**

bcc w/enclosure:

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION

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In the Matter of )  
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 )  
Nebraska Public Power District ) Docket 50-298  
Cooper Nuclear Station ) License DPR-46  
 ) EA 93-030

ORDER IMPOSING CIVIL MONETARY PENALTIES

I

Nebraska Public Power District (Licensee) is the holder of NRC License No. DPR-46 issued by the Nuclear Regulatory Commission (NRC or Commission). The license authorizes the Licensee to operate Cooper Nuclear Station in accordance with the provisions of the license.

II

An inspection of the Licensee's activities was conducted February 1-9, 1993. The results of this inspection indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties (Notice) was served upon the Licensee by letter dated March 30, 1993. The Notice described the nature of the violations, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalties proposed for the violations.

The Licensee responded to the Notice in a letter dated April 29, 1993. In its response, the Licensee admitted the violations which resulted in the proposed civil penalties, but requested mitigation for reasons that are summarized in the appendix to this Order.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has

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Nebraska Public Power District - 2 -

determined, as set forth in the Appendix to this Order, that the violations occurred as stated and that the penalties proposed for the violations designated in the Notice should be imposed.

IV

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

The Licensee pay civil penalties in the amount of \$200,000 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555.

V

The Licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing," and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing

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Nebraska Public Power District - 3 -

within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

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

Whether, on the basis of the violations admitted by the Licensee, this Order should be sustained.

FOR THE NUCLEAR REGULATORY COMMISSION

James H. Sniezek  
Deputy Executive Director for  
Nuclear Reactor Regulation, Regional Operations  
and Research

Dated at Rockville, Maryland  
this \_\_\_\_ day of June 1993

## APPENDIX

## EVALUATION AND CONCLUSION

On March 30, 1993, a Notice of Violation and Proposed Imposition of Civil Penalties (Notice) was issued for violations identified during an NRC inspection. Nebraska Public Power District responded to the Notice on April 29, 1993. The Licensee admitted the violations that resulted in the proposed civil penalties, but requested mitigation. The NRC's evaluation and conclusion regarding the licensee's request follow:

Restatement of Violations

- A. 10 CFR 50.9 requires, in part, that information provided to the Commission by a licensee shall be complete and accurate in all material respects.

Contrary to the above, in a letter dated December 1, 1992, the licensee provided written information to the Commission that was inaccurate and incomplete in material respects. The information provided by the licensee was in response to a Notice of Violation issued by the NRC on November 3, 1992, involving the failure of the licensee to identify and remove temporary strainers in the Core Spray system. This information was inaccurate because the licensee's response stated, with respect to the Reactor Core Isolation Cooling system, that "A specific completed sign-off in the preoperational test procedure (unlike the CS System pre-operational test) indicates that the strainer had been removed prior to start up testing." In fact, no such document existed indicating that the Reactor Core Isolation Cooling pump strainer had been removed. The only document which would have indicated that the strainers had been removed was Startup Test Instruction (STI) 14. On the only available copy of this document, there was no signature in the block adjacent to Step 6.2.9, which said "Remove suction strainers at a convenient time after completion of all RCIC related tests." This information was material because the NRC relied upon it as evidence that no temporary strainers existed in this system. On January 29, 1993, the Reactor Core Isolation Cooling system temporary strainer was found to have been left in the system.

This is a Severity Level III violation (Supplement VII).  
Civil Penalty - \$100,000

- B. 10 CFR Part 50, Appendix B, Criterion XVI, requires, in part, that measures shall be established to assure that conditions adverse to quality, such as deviations and nonconformances, are promptly identified and corrected.

Contrary to the above, between August 1992 and December 1992, measures established by the licensee to promptly identify and correct nonconformances did not assure the identification and correction of a potentially significant condition adverse to quality -- the presence of temporary strainers in the Reactor Equipment Cooling and the Reactor Core Isolation Cooling systems. In response to the identification of temporary strainers in the Core Spray system in August 1992, the



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licensee became aware of an incomplete evaluation for temporary strainers on the Reactor Equipment Cooling system and observed unmarked spacer rings in the Reactor Equipment Cooling system, and did not identify and correct the nonconforming condition until January 1993 when a strainer was observed during corrective maintenance. In addition, the licensee became aware that there was a lack of documentation to substantiate its belief that temporary strainers in the Reactor Core Isolation Cooling system had been removed. In spite of the fact that documentation did not exist, as described in Violation A, the presence of temporary strainers, a nonconforming condition, was not identified until January 1993, following the identification of temporary strainers in the Reactor Equipment Cooling system.

This is a Severity Level III violation (Supplement I).  
Civil Penalty - \$100,000

#### Summary of Licensee's Request for Mitigation

In its April 29, 1993, letter, the Licensee admitted the above violations but requested mitigation of the penalty, citing the following reasons:

1. The magnitude and extent of the corrective actions taken and planned by NPPD are such that the NRC has already achieved its objectives in the matter without imposing the civil penalties;
2. NPPD has not had an "accuracy and completeness" related violation for many years; and
3. NPPD's previous enforcement history should not reasonably lead to civil penalties of the magnitude proposed.

#### NRC Evaluation of Licensee's Request for Mitigation

The NRC's evaluation of the Licensee's arguments for mitigation follows:

1. The NRC recognizes that NPPD has supplemented the corrective actions it described at the enforcement conference to address the concerns that the NRC described in its March 30, 1993 Notice regarding individual performance issues and NPPD's problem identification and resolution programs. These additional actions, while important, do not serve as evidence that the NRC has achieved its objectives in this matter. The NRC's Enforcement Policy states that civil penalties are designed to emphasize the need for **lasting** remedial action and to deter **future** (emphasis added) violations. The fact that NPPD has taken steps toward preventing future violations is encouraging. However, since the NRC's letter appears to have been the reason for NPPD having developed these steps, and since the success of NPPD's corrective actions remains to be determined, the NRC does not agree that these actions provide a basis for mitigation of the proposed penalties.

2. The NRC does not disagree with NPPD's statements about its history of compliance with 10 CFR 50.9 or the completeness and accuracy of information it has provided to the NRC. This information was recognized by the NRC in proposing the civil penalty for this violation and in fact, as alluded to in the Notice, resulted in the penalty being reduced by 50 percent of the base value. This reduction was balanced against increases for prior opportunities to identify and NRC identification of the violation. Based on the significance of the circumstances surrounding this violation, the NRC does not believe that consideration of further mitigation is warranted.
3. The NRC took NPPD's enforcement and performance history into account in determining the proposed penalties. As indicated above, the penalty for the violation of 10 CFR 50.9 reflected NRC's view that NPPD's performance in this specific area had been good. With regard to the violation of 10 CFR Part 50, Appendix B, Criterion XVI, the penalty reflected the NRC's view that NPPD's corrective action programs have not been completely effective in identifying and resolving conditions adverse to quality. This was discussed on pages 4-5 of the Notice. Several documented weaknesses in the licensee's corrective action programs were cited. These were considered evidence of generally poor performance in identifying and resolving problems and, in accordance with the Enforcement Policy, used as a basis for increasing the penalty by 50 percent of the base value under the Licensee Performance factor. Based on the significance of the circumstances surrounding these violations, as described in the Notice, the NRC believes that NPPD's performance was adequately considered in determining the size of the penalties.

### NRC Conclusion

The licensee has not provided information sufficient to cause the NRC to consider a reduction in the size of the proposed civil penalties. Consequently, the proposed civil penalties in the amount of \$200,000 should be imposed by order.