



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV

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

June 25, 1997

EA 97-017

G. R. Horn, Senior Vice President
of Energy Supply
Nebraska Public Power District
1414 15th Street
Columbus, Nebraska 68601

SUBJECT: NOTICE OF VIOLATION AND EXERCISE OF ENFORCEMENT DISCRETION
(NRC Inspection Report Nos. 50-298/96-24 and 96-31)

Dear Mr. Horn:

This refers to inspections conducted at the Nebraska Public Power District's (NPPD) Cooper Nuclear Station which were documented in the subject NRC inspection reports. These inspections identified several apparent violations related to the accuracy of Cooper's Updated Safety Analysis Report (USAR) and the adequacy of certain analyses performed under the provisions of 10 CFR 50.59. The results of the inspections and our concerns were discussed with Mr. Phil Graham and others of your staff on February 19, 1997. The inspection reports were issued on February 25, 1997, and February 28, 1997, respectively. A predecisional enforcement conference was held in Arlington, Texas on April 15, 1997, to discuss the apparent violations. The issues discussed during the predecisional enforcement conference also included a review of NPPD's January 24, 1997, letter (reference the NRC's letter to you dated February 28, 1997), and a review of whether Cooper's LER 96-14-01 identified a loss of control of the license basis (reference NRC's letter to you dated April 8, 1997). The NRC issued a meeting summary related to the topics discussed at the predecisional enforcement conference in a letter to you dated May 14, 1997.

Based on the information developed during the inspections and the information that you provided during the conference, as well as communications with your staff on specific issues following the conference, the NRC has determined that violations of NRC requirements occurred. These violations are cited in Enclosure 1, the Notice of Violation (Notice), and the circumstances surrounding them were described in detail in the subject inspection reports and above referenced letters. The first violation contains eight examples of a failure to update the USAR as required by 10 CFR 50.71(e). The second violation contains three examples of a failure to perform adequate written safety evaluations in accordance with 10 CFR 50.59.

During the conference, your staff contested five of the examples that the NRC had identified as apparent violations. The NRC has reviewed NPPD's reasons for contesting these five examples, and has decided in three cases not to include the examples in the Notice of Violation. Our basis for this decision and our decision that violations did occur in the remaining two contested examples, are discussed in detail in Enclosure 2.

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In 1996, your staff determined that Cooper's USAR had many inaccuracies. However, your staff delayed in addressing the problem such that by the time of our inspection in October 1996, our inspectors identified further examples of USAR discrepancies in addition to those which your staff had identified and had not yet corrected. None of the issues impacted current operability, and the safety significance for these violations is low. Nonetheless, in the aggregate, these two violations are of regulatory significance because they represent a programmatic failure to meet the requirements of 10 CFR 50.71(e) and 10 CFR 50.59. This shows a significant lack of attention to detail on your part and has resulted in our current regulatory concern about the accuracy of the USAR. Therefore, these violations are classified in the aggregate in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600 as a Severity Level III problem.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$50,000 is considered for a Severity Level III problem. Because your facility has been the subject of escalated enforcement actions within the last 2 years¹, the NRC considered whether credit was warranted for Identification and Corrective Action in accordance with the civil penalty assessment process in Section VI.B.2 of the Enforcement Policy. The NRC has determined that credit is not warranted for identification because (1) although your staff identified the general problem of USAR inaccuracies in May 1996, the issues were not addressed in a timely manner, and (2) most of the specific issues that were the subject of the predecisional enforcement conference were identified by the NRC. However, the NRC determined that credit is warranted for Corrective Action. This determination is based on the numerous and comprehensive corrective actions you have undertaken to address the underlying cause of the problem. Some of the corrective actions include: the USAR has been changed or clarified for the identified items; an audit has been conducted on-site to verify the accuracy of the USAR; Cooper management has increased the focus on using Problem Identification Reports (PIRs) to identify USAR inconsistencies; training has begun on conducting evaluations required by 10 CFR 50.59; additional management oversight of the evaluations will be provided; Cooper's procedures for performing the evaluations have been upgraded; Cooper has developed an action plan to review potential unauthorized modifications that have resulted from past maintenance activities; and Cooper has developed a USAR rebaselining project, which includes developing a database of design and licensing basis documentation that will facilitate performance of more comprehensive 10 CFR 50.59 evaluations.

The normal civil penalty assessment process in this case would result in a \$50,000 civil penalty being proposed. However, after consultation with the Director, Office of Enforcement, I have been authorized not to propose a civil penalty in this case in accordance with the provisions provided in Section VII.B.6 of the NRC's Enforcement Policy. This decision is based on: (1) consideration of the generally low safety significance

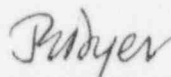
¹ The most recent case involved a Severity Level III violation issued on December 20, 1996 (EA 96-488), with no civil penalty, for a failure to meet station blackout requirements.

of the violations; (2) the comprehensiveness of NPPD's corrective actions; (3) the fact that the inspections were occurring at about the same time the NRC's Enforcement Policy was revised to place additional emphasis on USAR accuracy problems; and (4) our recognition that communications with the NRC may have inadvertently contributed to delaying your USAR upgrade program². However, significant violations in the future could result in a civil penalty.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Procedure," a copy of this letter, its enclosures, and your response will be placed in the NRC Public Document Room (PDR).

Sincerely,

fw 
Ellis W. Merschoff
Regional Administrator

Docket No. 50-298
License No. DPR-46

Enclosures: As stated

cc w/enclosures: (see next page)

² NPPD planned to update the USAR to include all safety basis information and eliminate nonsafety basis information using 10 CFR 50.59. NRC concerns about the acceptability of removing nonsafety basis information (i.e., the basis for using 10 CFR 50.59 was being questioned) resulted in NPPD placing the project on hold pending resolution of these questions. During a May 9, 1996 meeting (reference NRC Memorandum dated May 20, 1996), the licensee informed the NRC that the overall USAR upgrade program was on hold. Additional guidance on the use of 10 CFR 50.59 to remove information from the USAR was not available at the time of the meeting.

Nebraska Public
Power District

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Nebraska Public
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PDR
LPDR
SECY
CA
EDO (O-17G21)
DEDO (O-17G21)
OE:EAFile (O-7H5)
OGC (O-15B18)
NRR (O-12G18)
JRHall, NRR (O-13H3)
OC/LFDCB (T-9E10)
GFSanborn▶EAFile
EMerschhoff-RA Reading File

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NUDOCS
EC's: RI, RII, RIII
PA (O-2G4)
OIG (T-5D28)
OE (O-7H5)
OI (O-3E4)
OGC (O-15B18)
NRR/ADP (O-12G18)
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AEOD (T-4D18)
RIV Files

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TReiss	<i>[Signature]</i>	EMerschhoff	JLLeberman
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TPGwynn
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Recon

But 6/25/97