



Nebraska Public Power District

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NLS2003062

June 3, 2003

U.S. Nuclear Regulatory Commission
Attention: Document Control Desk
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

U.S. Nuclear Regulatory Commission
Attn: Mr. Samuel J. Collins, Director
Office of Nuclear Reactor Regulation
Mail Stop O5-E-07
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

Office of the Secretary
U.S. Nuclear Regulatory Commission
Attn: Rulemakings and Adjudications Staff
Washington, DC 20555-0001

Subject: Answer, Request for Relief, and Response to April 29, 2003, Order
Requiring Compliance with Revised Design Basis Threat for
Operating Power Reactors
(EA-03-086)

Section IV of the April 29, 2003, Order Requiring Compliance with Revised Design Basis Threat (DBT) for Operating Power Reactors (EA-03-086) (Order) issued by the Nuclear Regulatory Commission (NRC) states that, in accordance with 10 CFR 2.202, a licensee must submit an answer and may request a hearing on the Order within 35 days of the date of its issuance. This letter constitutes the answer (pursuant to 10 CFR 2.202 and Section IV of the Order) and response (pursuant to 10 CFR 50.4 and Section III. A.1, B.1, and B.2 of the Order) of Nebraska Public Power District (NPPD) to the Order.

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Section II of the Order states that “[i]n order to provide assurance that licensees are implementing prudent measures to protect against the revised DBT, all licenses identified in Attachment 1 to this Order shall be modified to require that the physical security plans, safeguards contingency plans, and the guard training and qualification plans required by 10 CFR 50.34(c), 50.34(d), and 73.55(b)(4)(ii) be revised to provide protection against this revised DBT.”

NPPD consents to the Order and does not request a hearing. NPPD notes the request for further clarification by the NRC in response to the five DBT issues provided in the safeguards attachment to the letter from Mr. Colvin, President and Chief Executive Officer of the Nuclear Energy Institute, to Chairman Diaz dated May 16, 2003. We encourage the NRC to respond to this request as soon as possible, as the NRC’s clarifications may affect the manner of compliance with the Orders.

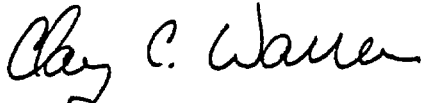
Because the NRC has used force-on-force testing as a standard by which compliance with the DBT was evaluated, NPPD also requests that the NRC provide a clear definition of the objectives and criteria for force-on-force exercises so that appropriate revisions can be made to NPPD’s physical security plan, safeguards contingency plan, and guard training and qualification plan.

Specifically, NPPD needs a clear explanation of the purpose of the force-on-force exercise (e.g., is the purpose of force-on-force exercises for security officer training, or to evaluate licensee compliance with the DBT?). Similarly, the success criteria for the force-on-force exercise needs to be established (e.g., is the criterion prevention of a large offsite release (which would be consistent with the basis for risk-informing NRC regulations) or some other criteria?). Finally, if a force-on-force exercise is going to be used as a performance test of the licensee’s ability to protect against the DBT, a clear definition of adversary rules of engagement and adversary tactics is needed to provide appropriate predictability and stability in the regulatory program. Absent these clarifications, the standard by which licensee performance will be measured will continue to be a constantly moving target which is counter to the Commission’s Principles of Good Regulation.

To enable NPPD to meet the compliance dates specified in the Order, the requested clarifications are needed as soon as possible. If the clarifications cannot be provided by October 1, 2003, we respectfully request that the Director, Nuclear Reactor Regulation extend the dates for submitting the revision to the physical security plan, safeguards contingency plan, guard training and qualification plan, and full implementation of the Order on a day-for-day basis until such clarifications are provided.

NPPD also confirms its understanding that the Commission intends to exercise enforcement discretion to accommodate issues which may arise as licensees, in good faith, take reasonable actions to implement the specific requirements of this Order. We further understand that the Commission will exercise enforcement discretion for the period necessary to resolve such issues and to

integrate the requirements of this Order with the orders issued February 25, 2002, as well as with other pertinent regulatory requirements, and our safeguards contingency plan, physical security plan and guard training and qualification plan.



Clay C. Warren
Vice President – Nuclear and
Chief Nuclear Officer

/nr

Attachment

cc: Assistant General Counsel for Materials
Litigation and Enforcement w/o attachment
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
(via facsimile)

Regional Administrator w/o attachment
U.S. Nuclear Regulatory Commission
Region IV
611 Ryan Plaza Drive, Suite 400
Arlington, TX 76011

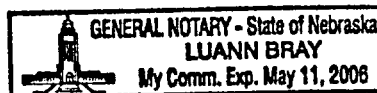
STATE OF NEBRASKA)
)
NEMAHA COUNTY)

Clay C. Warren, being first duly sworn, deposes and says that he is an authorized representative of the Nebraska Public Power District, a public corporation and political subdivision of the State of Nebraska; that he is duly authorized to submit this correspondence on behalf of Nebraska Public Power District; and that the statements contained herein are true to the best of his knowledge and belief.

Clay C. Warren
Clay C. Warren

Subscribed in my presence and sworn to before me this 3rd day of June, 2003.

LuAnn Bray
NOTARY PUBLIC



Compliance with Revised Design Basis Threat Order, EA-03-086

Consistent with the requests provided in NPPD's letter to the NRC on this matter, the following answers are provided:

Order EA-03-086, Item III A.1

All licensees shall, notwithstanding the provisions of any Commission regulation, license, or order to the contrary, revise their physical security plans and safeguards contingency plans, prepared pursuant to 10 CFR 50.34(c) and 50.34(d), to provide protection against the DBT set forth in Attachment 2 to the Order. In addition, all licensees shall, notwithstanding the provisions of any Commission regulation, license, or order to the contrary, revise their guard training and qualification plans, required by 10 CFR 73.55(b)(4)(ii), to implement the DBT set forth in Attachment 2 to the Order.

NPPD Response to Order EA-03-086, Item III.A.1

NPPD, the operator of Cooper Nuclear Station (CNS), will submit to the Commission for review and approval no later than April 29, 2004, the revised physical security plan, safeguards contingency plan, and guard training and qualification plan, including an implementation schedule, which will describe how CNS will respond to the design basis threat contained in Attachment 2 to the Order.

Order EA-03-086, Item III.A.2

The revised physical security plans, revised safeguards contingency plans, and revised guard training and qualification plans, must be fully implemented by the licensees no later than October 29, 2004.

NPPD Response to Order EA-03-086, Item III.A.2

NPPD, the operator of CNS, will implement the revised physical security plan, revised safeguards contingency plan, and revised guard training and qualification plan by October 29, 2004.

Order EA-03-086, Item III.C.

All licensees shall report to the Commission, in writing, when they have fully implemented the approved revisions to their physical security plans, safeguards contingency plans, and guard training and qualification plans, to protect against the DBT described in Attachment 2 to the Order.

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Attachment

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NPPD Response to Order EA-03-086, Item III.C.

NPPD, the operator of CNS, will notify the Commission, in writing, when full implementation of the approved revisions to the physical security plan, safeguards contingency plan, and guard training and qualification plan is complete.

ATTACHMENT 3 LIST OF REGULATORY COMMITMENTS

Correspondence Number: NLS2003062

The following table identifies those actions committed to by Nebraska Public Power District (NPPD) in this document. Any other actions discussed in the submittal represent intended or planned actions by NPPD. They are described for information only and are not regulatory commitments. Please notify the NL&S Manager at Cooper Nuclear Station of any questions regarding this document or any associated regulatory commitments.

COMMITMENT	COMMITTED DATE OR OUTAGE
NPPD, the operator of Cooper Nuclear Station (CNS), will submit to the Commission for review and approval no later than April 29, 2004, the revised physical security plan, safeguards contingency plan, and guard training and qualification plan, including an implementation schedule, which will describe how CNS will respond to the design basis threat contained in Attachment 2 to the Order.	April 29, 2004
NPPD, the operator of CNS, will implement the revised physical security plan, revised safeguards contingency plan, and revised guard training and qualification plan by October 29, 2004.	October 29, 2004
NPPD, the operator of CNS, will notify the Commission, in writing, when full implementation of the approved revisions to the physical security plan, safeguards contingency plan, and guard training and qualification plan is complete.	October 29, 2004