

September 28, 2006

EA-06-162

Mr. T. Palmisano
Site Vice President
Prairie Island Nuclear Generating Plant
Nuclear Management Company, LLC
1717 Wakonade Drive East
Welch, MN 55089

SUBJECT: NOTICE OF VIOLATION [NRC INSPECTION REPORT 05000282/2006015;
05000306/2006015 AND NRC INVESTIGATION REPORT NO. 3-2006-004]
PRAIRIE ISLAND NUCLEAR GENERATING PLANT

Dear Mr. Palmisano:

This refers to an inspection by the U.S. Nuclear Regulatory Commission (NRC) that was completed on June 29, 2006, and an investigation by the NRC Office of Investigations (OI) that was completed on April 27, 2006, at the Prairie Island Nuclear Generating Plant, Units 1 and 2, (Prairie Island) operated by the Nuclear Management Company, LLC (NMC). The inspection and investigation identified an apparent violation of 10 CFR 50.9, "Completeness and Accuracy of Information," associated with information that NMC provided to the NRC on July 21, 2005, in two applications for reactor operator licenses at the Prairie Island facility. A copy of the inspection report, NRC Inspection Report No. 05000282/2006013;05000306/2006013, was provided to you on July 18, 2006.¹

In the letter transmitting the inspection report, we provided you the opportunity to address the apparent violation identified in the report by either attending a predecisional enforcement conference or by providing a written response before we make our final enforcement decision. In a letter dated August 14, 2006, you provided a written response to the apparent violation.

Based on the information developed during the NRC inspection, the OI investigation and the information that you provided in your August 14, 2006, written response to the inspection report, the NRC determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the subject inspection report. In summary, on July 21, 2005, NMC submitted two NRC Form 398s, "Personal Qualification Statement - License," to the NRC, one for an applicant seeking a reactor operator (RO) license and one for an applicant seeking a senior reactor operator (SRO) license at the Prairie Island facility. Both of the NRC Form 398s indicated the applicants had completed on January 18, 2005, a significant manipulation of the reactor controls using the Prairie Island simulator to simulate a reactor startup. The NRC Form 398s

¹ Inspection Report No. 05000282/2006015; 05000306/2006015 was assigned to track the violation described in the enclosed Notice.

also indicated that, as of January 18, 2005, NMC had conducted certification testing of the simulator which demonstrated that the simulator replicated the current plant reactor core model. However, following a subsequent investigation, NMC determined that it could not locate documentation to demonstrate that simulator certification testing for the reactor startup procedure had occurred. Therefore, inaccurate information was submitted on the NRC Form 398s. The licensee subsequently performed testing of the simulator during October 2005, which demonstrated that the simulator replicated the current plant reactor core model.

The information on NRC Form 398 is material to the NRC because it is used to determine that an applicant for license to operate a nuclear power reactor had performed a sufficient number of significant reactivity control manipulations prior to being licensed to operate a nuclear power reactor. On September 23, 2005, the NRC issued a license to operate a nuclear reactor to each applicant based, in part, on the inaccurate information that the NMC submitted to the NRC concerning each applicant's use of the Prairie Island simulator to manipulate the controls for a reactor startup. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$65,000 is considered for a Severity Level III violation. Because your facility has not been the subject of escalated enforcement actions within the two years preceding the violation, the NRC considered whether credit was warranted for corrective actions in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. Credit was warranted for corrective actions consisting of: (1) revising the procedure on NRC Operator Licensing Requirements to include a checklist to verify that items on the checklist support the requirements for license applications prior to its submittal of the applications; and (2) revising the procedure for simulator testing documentation to strengthen the specific testing and documentation instructions.

Therefore, to encourage prompt and comprehensive correction of violations and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance will be achieved is already addressed on the docket in NRC Inspection Report No. 05000282/2006013;05000306/2006013 and in an August 14, 2006, letter from the Nuclear Management Company, LLC. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice. Please contact Hironori Peterson, Chief, Operations Branch, with questions. Mr. Peterson can be reached at telephone number (630) 829-9707.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if you choose to respond, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Significant Enforcement Actions**.

Sincerely,

/RA by Geoffrey E. Grant Acting for/

James L. Caldwell
Regional Administrator

Docket Nos. 50-282; 50-306
License Nos. DPR-42; DPR-60

Enclosure: Notice of Violation

cc w/encl: C. Anderson, Senior Vice President, Group Operations
M. Sellman, Chief Executive Officer and Chief Nuclear Officer
Regulatory Affairs Manager
J. Rogoff, Vice President, Counsel & Secretary
Nuclear Asset Manager
State Liaison Officer, Minnesota Department of Health
Tribal Council, Prairie Island Indian Community
Administrator, Goodhue County Courthouse
Commissioner, Minnesota Department
of Commerce
Manager, Environmental Protection Division
Office of the Attorney General of Minnesota
Council Administrator
President, Prairie Island Tribal Council
Goodhue County Sheriff
Director, Pierce County Emergency
Management Agency
Chair, Pierce County Board of Commissioners
Chair, Dakota County Board of Commissioners
Mayor of Red Wing
Director, Goodhue County Emergency
Management Agency
Chair, Goodhue County Board of Commissioners
Pierce County Sheriff
Dakota County Sheriff
INPO

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if you choose to respond, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Significant Enforcement Actions**.

Sincerely,
/RA by Geoffrey E. Grant Acting for/
 James L. Caldwell
 Regional Administrator

Docket Nos. 50-282; 50-306
 License Nos. DPR-42; DPR-60

Enclosure: Notice of Violation

cc w/encl: C. Anderson, Senior Vice President, Group Operations
 M. Sellman, Chief Executive Officer and Chief Nuclear Officer
 Regulatory Affairs Manager
 J. Rogoff, Vice President, Counsel & Secretary
 Nuclear Asset Manager
 State Liaison Officer, Minnesota Department of Health
 Tribal Council, Prairie Island Indian Community
 Administrator, Goodhue County Courthouse
 Commissioner, Minnesota Department
 of Commerce
 Manager, Environmental Protection Division
 Office of the Attorney General of Minnesota
 Council Administrator
 President, Prairie Island Tribal Council
 Goodhue County Sheriff
 Director, Pierce County Emergency
 Management Agency
 Chair, Pierce County Board of Commissioners
 Chair, Dakota County Board of Commissioners
 Mayor of Red Wing
 Director, Goodhue County Emergency
 Management Agency
 Chair, Goodhue County Board of Commissioners
 Pierce County Sheriff
 Dakota County Sheriff
 INPO

*See previous concurrence

FILE NAME: E:\Filenet\ML062750146.wpd

☒ Publicly Available ☐ Non-Publicly Available ☐ Sensitive ☒ Non-Sensitive

To receive a copy of this document, indicate in the box: "C" = Copy w/o att/encl "E" = Copy w/att/encl "N" = No copy

OFFICE	RIII	E	OGC ¹	E	D:OE ²	E	RIII	E	RIII		RIII		RIII
NAME	Weil *		Spencer for Jones*		Solorio for Carpenter*		West for Pederson		West for Satorius		O'Brien		Grant for Caldwell
DATE	09/26/06		09/18/06		09/26/06		09/27/06		09/27/06		09/27/06		09/28/06

OFFICIAL RECORD COPY

¹ No legal objection received on September 18, 2006, during a telephone conversation between Michael Spencer, OGC, and Charles Weil, RIII.

² David Solorio, OE, provided HQ concurrence in an e-mail dated September 26, 2006.

Letter from J. Caldwell to T. Palmisano dated September 28, 2006

SUBJECT: NOTICE OF VIOLATION [NRC INSPECTION REPORT05000282/2006015;
05000306/2006015 AND NRC INVESTIGATION REPORT NO. 3-2006-004]

DISTRIBUTION:

ADAMS (PARS)

SECY

OCA

L. Reyes, EDO

W. Kane, DEDR

C. Carpenter, OE

D. Solorio, OE

D. Starkey, OE

R. Fretz, OE

J. Caldwell, RIII

G. Grant, RIII

L. Chandler, OGC

B. Jones, OGC

J. Dyer, NRR

C. Pederson, RIII

M. Satorius, RIII

A. Boland, RIII

S. West, RIII

D. Holody, Enforcement Officer, RI

C. Evans, Enforcement Officer, RII

K. O'Brien, Enforcement Officer, RIII

K. Fuller, Enforcement Officer, RIV

R. Pascarelli, Enforcement Coordinator, NRR

H. Peterson, RIII

R. Skokowski, RIII

Resident Inspector

E. Brenner, OPA

H. Bell, OIG

G. Caputo, OI

J. Schlueter, OSTP

C. Weil, RIII

M. Spencer, OGC

R. Paul, OI:RIII

S. Kryk, OI:RIII

N. Hane, OI:RIII

J. Strasma, RIII:PA

R. Lickus, RIII

J. Lynch, RIII

OEWEB

OEMAIL

OAC3

ROPreports@nrc.gov

NOTICE OF VIOLATION

Nuclear Management Company, LLC
Prairie Island Nuclear Generating Plant
Units 1 and 2

Docket Nos. 50-266; 50-301
License Nos. DPR-24; DPR-27
EA-06-162

During an NRC inspection completed on June 29, 2006, and an NRC Office of Investigations investigation completed on April 27, 2006, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 50.9(a) provides, in part, that information provided to the Commission by an applicant for a license or by a licensee shall be complete and accurate in all material respects.

10 CFR 55.31(a) requires, in part, that an authorized representative of the facility licensee must certify, on NRC Form 398, "Personal Qualification Statement - License," that an applicant for a reactor operator or senior reactor operator license successfully completed the facility licensee's requirements to be licensed as a reactor operator or a senior reactor operator. The authorized representative of the facility licensee must also provide evidence that the applicant, as a trainee, successfully manipulated the controls of either the facility for which a license is sought or a plant-referenced simulator that meets the requirement of 10 CFR 55.46(c).

10 CFR 55.46(c) requires, in part, that a facility licensee that proposes to use a plant-referenced simulator to meet the control manipulation requirements in 10 CFR 55.31(a)(5) must ensure that the plant-referenced simulator utilizes models relating to nuclear and thermal-hydraulic characteristics that replicate the most recent core load in the nuclear power reference plant for which a license is being sought. 10 CFR 55.46(c) also requires the facility licensee demonstrate simulator fidelity so that significant control manipulations are completed without procedural exceptions or deviation from the approved training scenario sequence.

10 CFR 55.46(d) requires, in part, that the facility licensee conduct performance testing throughout the life of the simulation facility in a manner to ensure simulator fidelity has been demonstrated. The results of performance tests must be retained for four years after the completion of each performance test or until superseded by updated test results.

Contrary to the above, on July 21, 2005, the facility licensee provided inaccurate information to the Commission on two NRC Form 398s, "Personal Qualification Statement - Licensee," dated July 20, 2005, for an individual applying for a reactor operator license and for an individual applying for a senior reactor operator license. Specifically, the facility licensee provided information on each application indicating the applicant performed reactivity control manipulations on the Prairie Island plant simulator on January 18, 2005, and that the simulator had a current core model that replicated the plant as verified by performance testing. However, the facility licensee failed to retain records for simulator performance testing associated with reactivity control

manipulations that was conducted on the plant-referenced simulator during November 2004. Therefore, the facility licensee's statements on each NRC Form 398 were inaccurate, because at the time the simulated reactivity manipulation was performed on January 18, 2005, the facility licensee could not demonstrate the simulator had a current core model that replicated the plant as verified by performance testing. This information was material to the NRC because it was used to evaluate the sufficiency of the significant control manipulations for each applicant and was part of the bases the NRC used to issue licenses to the reactor operator license applicant and the senior reactor operator license applicant.

This is a Severity Level III violation (Supplement VII)

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance will be achieved is already addressed in NRC Inspection Report No. 05000282/2006013; 05000306/2006013 (ADAMS Accession No. ML062000319) and in an August 14, 2006, letter from the Nuclear Management Company, LLC (ADAMS Accession No. ML062270252). However, you are required to submit a written statement of explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-06-162" and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator and Enforcement Officer, NRC Region III, and a copy to the Resident Inspector at the Prairie Island Nuclear Generating Plant within 30 days of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 28th day of September 2006