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Consideration of Environmental Impacts on Temporary Storage of Spent Fuel After Cessation of Reactor Operation

Comment On: NRC-2012-0246-0362

Draft Waste Confidence Generic Environmental Impact Statement

Document: NRC-2012-0246-DRAFT-1188

Comment on FR Doc # 2013-21715

Submitter Information

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Organization: City of Red Wing

General Comment

Please see attached.

Attachments

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December 20, 2013

Ms. Cindy Bladey
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Office of Administration
Mail Stop: TWB-05-B01M
U.S. Nuclear Regulatory Commission
Washington DC, 20555-0001

RE: Consideration of Environmental Impacts of Temporary Storage of Spent Fuel
Docket No.: NRC-2012-0246
Comments of the City of Red Wing, Minnesota on the Draft Generic
Environment Impact Statement

Dear Ms. Bladey:

This firm represents the City of Red Wing, Minnesota (the "City") with respect to the above-referenced matter. We submit these comments on behalf of the City to the Nuclear Regulatory Commission (the "NRC" or "Commission") in response to its request for feedback or comments on the Draft Generic Environmental Impact Statement (the "Draft GEIS") that was prepared by the Commission in support of or as a substitute for its Waste Confidence Rule. The City has also submitted comments on a Draft Environmental Assessment (the "Draft EA") that has been completed as part of the re-licensing of the independent spent fuel storage installation for the Prairie Island Nuclear Generating Plant. Those Draft EA comments should be read in conjunction with and the City hereby incorporates the same into this letter. The Draft EA comments are attached hereto and incorporated herein.

At the outset, the City thanks the Commission for the opportunity to submit comments on the Draft GEIS. The City looks forward to working with the Commission, its staff, and consultants to address this very important issue of the storage of spent fuel from nuclear reactors across the United States.

By way of background, the City is a host community to the Prairie Island Nuclear Generating Plant (the "PINGP"), which is a dual reactor 1118 MW facility. Immediately adjacent to the PINGP, sits approximately thirty-one (31) individual dry casks in which are stored spent nuclear fuel rods. In addition, the PINGP spent fuel pool, like all others, contains spent fuel that has been unloaded from the reactors and is waiting to be stored or transferred into the casks. It is anticipated that at the end of the

life of the PINGP, which is currently scheduled in 2033 and 2034, and following the appropriate holding or cooling off period for the rods, there will be approximately one hundred (100) casks located on the independent spent fuel storage system (the "ISFSI").¹ This does not include any casks or other storage systems for other classes of waste originating from the decommissioning of the PINGP.

The operator of the PINGP, and the associated ISFSI, is Northern States Power Company d/b/a Xcel Energy (the "Company"). The City and Company have worked together over the years to first site and thereafter solve many of the issues associated with the PINGP. The City has been supportive of the Company and its efforts to maintain not only the PINGP but the ISFSI in a reasonable and safe fashion.

However, the City, like many other host communities, is now facing a scenario that it did not, under any set of circumstances, envision: the failure of the Federal Government to honor its contractual agreement with the Company and remove the spent fuel from the PINGP to either an interim storage facility or a long-term or permanent repository. Despite any other contention or disagreement with the Company, the City stands resolute with the Company that the continued storage of spent fuel outside of the PINGP is not a workable solution. With no plan or process in place for its removal, storage, which was to be short (if at all), has become, for all practical purposes, permanent.

The City, as the host city to the PINGP and the ISFSI, is uniquely situated to provide input on the Draft GEIS by the Commission. The City, in all respects, is a first responder to any incident at the PINGP or the ISFSI. It is obligated, under both federal and state law, to annually provide reasonable assurance that it has the necessary facilities and infrastructure to meet and respond to any incident at either facility. The City, then, is obligated to maintain a steady state of readiness through its investment in and maintenance of the necessary equipment and personnel, as well as the necessary buildings to locate the same, in order to meet its obligations. It has and continues to do so despite the continued reduction of revenue to the City from the Company for taxes on the PINGP. The City, in turn, has been forced to shift this burden to its other taxpayers who, since 1996, have seen their property taxes increase over 188%.

Thus, the City is uniquely qualified to provide comments to the Draft GEIS. In addition, as outlined below, the actual ISFSI is located within the boundaries of the

¹ The precise number of casks that will hold spent fuel has not yet been determined since the PINGP is using a different fuel assembly that burns hotter and longer in the reactor and thus requires replacement or refueling at a different rate. Accordingly, the number of casks originally calculated as being necessary for end of life storage of spent fuel may be lower or higher depending on when refueling occurs and how many fuel assemblies can be placed into the casks. Though the casks are larger to accommodate the larger fuel assemblies, it is unknown if the new casks will hold the same number of spent fuel assemblies as the casks that are currently being used.

City. Thus, the City is and will continue to be impacted by the spent fuel that is located in the ISFSI.

In providing its comments to the Draft GEIS, the City breaks these comments into three (3) separate categories: the scoping of the Draft GEIS itself, including but not limited to, a fundamental premise of the Waste Confidence Rule is to cessation of operation of a nuclear power plant; an overview of the Draft GEIS and, the specific comments to the Draft GEIS.

1. **Scoping.** While the City understands that the scoping decision for the Draft GEIS has been completed, there was never an opportunity to respond *after* the scoping decision for the Draft GEIS was finalized. In other words, while parties had an opportunity to weigh in, as the City did in its January 2, 2013, Comment Letter (which is identified as Document No: 291), there was no period or timeframe for comments after the parties comments were considered and required. While the City focuses its comments below on the scoping decision, these comments also apply to the Draft GEIS and should be considered equally with the same.

(i). **The Waste Confidence Rule Should Start After Spent Fuel is Placed In Dry Storage.** Throughout the scoping decision and the Draft GEIS, the timeframe being analyzed by the NRC commences with when a particular plant ceases operation. In other words, the NRC is expressing its confidence the waste can safely be stored for a period of time after a plant ceases operation.

This timeframe misses the mark. The origin of the Waste Confidence Rule stems from the failure of the Federal Government to remove spent fuel to a temporary or permanent repository after an appropriate cooling period. The Waste Management Rule was recognition that spent fuel had to be stored on site for a period of time and an expression by the Commission that such storage could be accomplished safely for a set and re-set period of time. The origin, then, of the confidence for the storage of spent fuel had nothing to do with the continued operations of the plant which generated the fuel that needed to be removed. Rather, it was an expression that it could be safely stored at the plant until such time that temporary or permanent repository could be found.

An analysis that starts upon cessation of operations of a power plant that generates a spent fuel also provides a false mark for the storage periods being analyzed in the Draft GEIS. For example, at the PINGP storage in dry casks began in 1993. The plant, however, will not cease operations until 2033 and 2034, respectively. Accordingly, storage in dry casks will be ongoing for over forty (40) years prior to the PINGP's cessation of operations. Applying the logic of the Draft GEIS, replacement would not occur until one hundred (100) years after the PINGP's cessation. This would mean that the casks, first filled in 1991, would be over one hundred-forty (140)

years old before replacement of the same would occur. This is inconsistent, the presumption that dry casks need to be changed every one hundred (100) years.

Accordingly, the best mark to start or use is the timeframe that spent fuel goes into dry cask storage. This timeframe would not include mandatory time it has spent in the spent fuel pool to ensure that the fuel assemblies have sufficiently cooled for handling and radio activity.²

(ii). Mitigation Through Emergency Preparedness/Emergency Response Needs to be Included. In order for the EIS to meet NEPA, an analysis of mitigation through emergency preparedness and/or emergency response must be included. The core concept of NEPA is to evaluate a certain activity and its potential impact on the human and natural environment. As part of that, there are a number of alternatives that are examined including how certain adverse impacts may be avoided. The inclusion of possible mitigation measures serves one of NEPA's basic functions. *See Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 351-52, 109 S.Ct. 183 (1989).

Mitigation is defined as measures that are intended to avoid and, minimize, rectify, reduce, or compensate for environmental impacts. *See* 40 CFR § 1508.20. Not only is a federal agency, or in this case, the NRC, obligated to discuss possible mitigation measures as part of the scope of its Draft GEIS but it should discuss alternatives to the proposed action and the consequences of the same and as alternatives. In other words, it needs to address how mitigation plays out in the Draft GEIS. *See* 40 CFR § 1505.

The purpose of the Draft GEIS is to evaluate the impact of continued storage over the stated periods of time. It is also to evaluate, as it does to a great extent with spent fuel pools, the impact of potential release into the environment and the impact it would have on the human and natural environments. The general discussion of the robust nature of the storage systems is not a substitute for evaluating mitigation. Indeed, it is the systems themselves that must be evaluated for release and potential release – and then mitigation as a result of that activity.

Mitigation here comes in the sense of a response and effort to contain or potentially stop any release. The emergency preparedness of any first responder is required as part of the reasonable assurance that each is required to provide annually.

Accordingly, the failure to include a complete discussion and analysis of mitigation, which would include emergency preparedness and certain base levels for the same, defeats the very goal the NRC set out to accomplish: the creation of an EIS

² This argument assumes, and the NRC should require, that spent fuel is moved to dry storage in a commercially reasonable timeframe after the same has sufficiently cooled in a spent fuel pool. The NRC should limit spent fuel pool storage.

that meets NEPA qualifications.³ Mitigation and an evaluation of emergency preparedness need to be included in the Draft GEIS.

2. **Overall Draft GEIS Review.** In addition to the generic comments set forth above, the City has provided an overall view to the Draft GEIS that addresses its perceived deficiencies. These deficiencies lead, in the opinion of the City, to a lack of analysis which results in the failure of the NRC to meet its obligations under NEPA. In addition, these deficiencies create inconsistencies in the Draft GEIS itself and leave it open to challenge.

(i). **The Draft GEIS Provides and Incomplete Analysis on the Impact of Taxes from Continued Storage.** In evaluating the impacts of continued storage, the Draft GEIS simply concludes that tax payments will continue. While it does, in some sense, appropriately defer this analysis based on local and state taxing ordinances, regulations, and codes, it does not appropriately or discuss the impact that a reduction in taxes will have as there is a switch from plant operation to storage only. It does not evaluate what impact this will have on the host community and its ability to maintain the necessary public safety services to respond to an incident at the storage facility. That host community will still be obligated to respond to an incident but not receive the same tax revenue to do so. As noted by the NRC in the Draft EA, the financial burden on first responders such as the City of Red Wing is not going to diminish over time. Draft EA, Section 4.4, page 4-3. It is going to stay the same as long as the spent fuel is stored on site. How does this burden impact the City and other host communities? What will happen when there is the precipitous drop in revenue to them generated by the power plants? These issues related to revenue need to be further evaluated.

The Draft GEIS Does Not Evaluate the Chilling Effect on the Local Economy. The Draft GEIS, while evaluating the positive impact that continued storage will have on the local economy, does not evaluate the chilling effect of the same. As set out before, the City finds itself in the untenable position of continuing to be a host community for the spent fuel that has been generated by the PINGP. Based on what is currently known, as well as past experiences and statements by the Federal Government, the City believes that this hosting or better yet storage will go on indefinitely. This will have a chilling effect on the City's economy and its development. It will impact its ability to grow in the area where the spent fuel is stored, including any adjacent parcels. The chilling effect will also extend to the City's ability to attract new businesses and to otherwise present itself in a positive

³ It could be said regarding the new Waste Confidence Rule that is being proposed: the only true measure of confidence is to include an analysis about what will happen in the event of an incident, whether radiological or non-radiological, at a storage facility. To be confident that nothing is going to happen and no response will be needed is not confident or reassuring at all. It is naïve. The probability may be small but if there is an incident and no appropriate response, the results will be catastrophic.

fashion. All of this will stymie the City's ability to naturally develop and compete with other cities to attract and maintain businesses.

This chilling effect of continued storage was noted by the Blue Ribbon Commission and served, in part, as a basis for its recommendation that temporary storage be developed. The Blue Ribbon Commission recognized that cities such as the City of Red Wing were, in many ways, hostages to the spent fuel: their futures were tied to the uncertainty of continued storage. The chilling effect was also noted in this Draft EA as it relates to the Prairie Island Indian Community (the "PIIC") and its use of the land adjacent to the spent fuel storage area. The City, as noted in its comments to the Draft EA attached hereto, contends that this analysis should extend to the City's land use and development. This point needs to be further developed within the scope of the Draft GEIS so that a true evaluation on the impact to the human environment is addressed.

(ii). The Draft GEIS Lacks any Reference to Manufacturers' Requirements for the Storage Systems. The Draft GEIS assumes that there will be dry cask storage after (or during) the one hundred (100) year period following cessation of plant operations. The Draft GEIS further assumes that these robust systems of storage will be adequate for that time though, after 100 years, they will need to be transferred into a second storage cask or a cask that may be used for transfer.⁴

Despite these assumptions, there is no reference to any manufacturers' analysis on the useful life of the casks. Nowhere is there any reference to any warranty that is provided or other information that would tend to support the conclusions that are reached within the Draft GEIS on storage. There is no reference to any experiences to date on attempted transfer. There is not a sufficient period of empirical evidence that would otherwise support the conclusions reached by the Draft GEIS. Simply put, there has not been storage over the stated period times that would support the same conclusions. Rather, the Draft GEIS makes and relies on these assumptions being made without any substantive analysis or support.

In order to support the conclusions set forth within the Draft GEIS, manufacturers' information must be included. The Draft GEIS must also set out what historically has been said about storage and the use and limitation of the current storage systems.

(iii). The Assumption of Institutional Control Needs to be Removed. A principle assumption throughout the Draft GEIS is that there will be institutional control to meet the necessary obligations for long-term storage of spent fuel. At its

⁴ As noted previously, the confidence expressed in the 100 year timeframe for storage is inconsistent with the base line assumption that storage will start on the day that a plant ceases operation. Storage starts the day the spent fuel assemblies are transferred to the dry cask storage.

core, this assumption concludes that the corporations and limited liability companies that generating the spent fuel will have sufficient funds to meet the requirements for long-term storage and that the regulations promulgated and enforced by the Commission will be enough to ensure safety, maintenance and good storage procedures. There is nothing in the Draft GEIS, other than this statement, to support this conclusion.⁵

Unlike decommissioning funds, which are required to be set aside in order to decommission a power plant or return it to its natural habitat, there are no such funds for the handling and storage of spent fuel. Likewise, there is no assurance that an entity will even be viable in 100 years. This assumption of institutional control must be addressed – and removed.

3. **Specific Comments on the Draft GEIS.** In addition to the more generalized comments set forth in Sections One and Two above, the City submits the following specific comments to the Draft GEIS. In doing so, the City will identify a section, page number and line in which its comments are focused. This will allow for ease of reference for the NRC staff. The City's comments are as follows:

A. **Executive Summary.**

1. Under section ES.2, page xxiv, lines 5-7, the Draft GEIS needs to include a mitigation analysis (including emergency preparedness) to meet its NEPA requirements. The failure to do so is an assumption that there will not be an incident at any storage facility, wet or dry, for which a response will be required. This assumption is not appropriate in an environmental impact statement and, fundamentally, defies common sense. There must be a mitigation analysis.

2. Under section ES.9, page xxvii, lines 10-21, the Draft GEIS sets forth some of the assumptions that were made in preparing the same. As described below, these assumptions have no empirical or other evidence to support the validity of the same. Rather, the conclusions/assumptions are based upon the experience of the NRC and its continued management of the nuclear industry. However, as the NRC has noted, the Draft GEIS, is in response to the unique set of facts that the NRC is facing relative to spent nuclear fuel. The experience that purportedly is being relied upon is not experience realized through completion of a similar exercise and then repeating that same task but rather is garnered in real time. That is not the

⁵ Interestingly, as is described in more detail below, the Draft GEIS focuses on oversight and regulatory control on being controlling and providing the basis for an assumption of institutional control. It does not because it presumes there is an entity to oversee and regulate. The real issue is not an entity to control, it is the availability of the funds to ensure that the activities necessary to ensure storage, transfer and transport are completed.

definition of experience. Accordingly, any assumption, in keeping with basic NEPA principles, should be supported in an articulable way.

3. Under section ES.12, page xxxi-xxxii, under table ES-1, there is no articulable public safety component and how it would play into various affected areas identified in the Draft GEIS. In addition, consistent with the general objections, the narrowness of the affected area, as defined in the Draft GEIS, is too narrow to effectively analyze the impact of continued storage on both the human and natural environments. Public safety has to be included in the analysis and the analysis itself must be expanded to include indirect impacts of continued storage.

4. Under section ES.13, page xxxiv, lines 15-27, the Draft GEIS concludes that the impact of continued storage would be small under the various scenarios that it is analyzing. However, the analysis does not weigh the chilling effect that continued storage will have, the drain on public safety services as first responders (like the City) are required to maintain the necessary readiness to respond to an incident or are any of the other factor that will have a negative impact on the development and growth of the area surrounding the ISFSI.

The simple notion that the socioeconomic impact, as determined by the number of workers, the construction on any ISFSI replacement or its ongoing operations, by itself, is a measure of the impact of continued storage would have upon cities and other areas simply falls short of any meaningful analysis. One of the fundamental NEPA mandates is to evaluate how the proposed action, in this place long-term storage, would have a *negative* impact upon the human environment in which it is based. Part of that human environment consists of the socioeconomics of the area surrounding the storage. As such, an appropriate analysis would not be limited to just the direct impact (e.g. the number of workers at the storage facility), but would be the indirect impact – especially in the unique circumstances presented by stored, but continuing, radioactive material.

5. Under section ES13.1.15, pages xli and xlii, lines 21-34, and 1-11, respectively, lower level waste management or disposal of the same is assumed to be available. However, as described in more detail below, this presumption may prove to be false since currently there are very limited options for the disposal of low level waste. With the continued radioactivity in these wastes, there is a possibility that there may not be a private facility open or one that would accept certain levels of waste unless this was supported by the Federal Government. This analysis must be supplemented and described in more detail.

6. Under section ES13.2.16, page lvii, lines 5-29, in that portion of the executive summary which addresses away from reactor storage sites, the analysis on transportation misses the mark. There needs to be an analysis on the risks associated with that process including but not limited to a discussion of the various canisters that are to be used for such transportation, the transfer into those casks and the risks of the transport.

7. Under section ES.16.2, page lix, lines 15-35, there is no reference whatsoever to any mitigation, emergency response or emergency preparedness. All of these factors must be included within in an analysis of the spent fuel fire – or any other analysis of an incident or threatened incident. To merely rely on general statements of the robustness of the container or “mitigation measures implemented by licensees as a result of NRC orders” are insufficient. This does not analyze any impact of the proposed action because it assumes there will be no impact of the proposed action. This assumption, then, foregoes any analysis under NEPA. The Draft GEIS should set out the necessary mitigation to control or contain any incident.

B. Introduction.

1. Under section 1.2, page 1-4, lines 17-21, the language regarding the timeframe in which the continued storage should be analyzed must exclude any language relative to the end of a reactors license life for operation. The appropriate timeframe for beginning the analysis on storage is the date in which the spent fuel is actually stored. This analysis shall be separate and distinct from any licensing and further separate and distinct from any operations or decommissioning.

2. Under section 1.3, page 1-5, lines 16-21, the Draft GEIS should add that past licensing has been based, in part, on the Waste Confidence Rule. This Waste Confidence Rule was done or completed without the benefit of an EIS or any determination of long-term impact. There was simply the assumption that continued storage was safe. As it currently exists, the Draft GEIS is exactly the same. The City hopes it comments are appropriately weighed so that any final report avoids this flaw.

The Draft GEIS should also add while the NRC has experience with licensing and spent fuel storage from the 1950's, dry cask storage has not extended back that far and the technology associated with higher burn rates for fuel assemblies has changed. A Draft GEIS should specifically reference that the storage being determined by the Draft GEIS was never contemplated and therefore is unique in both analysis and application.

This also applies to the various reports the Draft EIS cites to and relies upon. Those reports may be based upon assumptions of experience or that the Commission, as contemplated by the old Waste Confidence Rule, will simply remove the fuel in a stated period of time. Thus, while there is an analysis of some aspect of storage, the equipment or components used and various threats to the same, there is not an inclusion of a specific time element and the natural decay or degradation of the examined equipment or components. The Commission must be careful in its reliance on these types of reports – as well as the assumptions in the Executive Summary or its risks concluding, without analysis, that continued storage need not be analyzed.

3. Under section 1.8.2, starting on page 1-12 and continuing to 1-13, the entire section should delete any reference to the storage timeframe including operations of the plant. As noted before, the continued operation of the plant is separate and distinct from storage.

4. Under section 1.8.3, starting on page 1-13 and carrying over to 1-17, the Draft GEIS makes a number of assumptions that are then carried forward throughout the document. These assumptions are, in many ways, not supported by any substantive evaluation, analysis or any other empirical evidence. There is no reference to any report, study, or other governmental or non-governmental review. As such, these assumptions, rather than support and provide depth to the Draft GEIS, pull away from it and create opportunities to challenge the same for failure to meet NEPA requirements. These assumptions are as follows:

- On page 1-14, lines 13-18, there is an assumption regarding normal life of the storage facilities. This assumption is based upon the knowledge and experience with structure and operation of these storage facilities. This assumption does not, in any way, reference the manufacturers' information on the casks including, without limitation, any warranties or anticipated life. Rather, it is based solely upon the NRC's experience with the same. This assumption does not pass muster since the NRC does not have any experience relative to the lifetime of the structure to store the spent fuel. A full evaluation of the proposed storage facilities needs to be provided.
- On page 1-14, lines 19-22 and carrying over to 1-15, lines 1-5, there are assumptions on institutional control. The assumption with institutional control is that the Federal Government will somehow provide safe storage of spent fuel through regulation. However, that is not what is happening in the field. The obligation to temporarily store spent fuel belongs to the generator of that fuel.

Even corrected, the assumption of institutional control misses the mark. There is no reference, whatsoever, to how the generators are going to pay or provide for safe storage or whether these corporate entities are even going to exist. This assumption must be removed.

- On page 1-15, lines 6-15, the assumption regarding institutional control continues. Again the Draft GEIS solely focuses on Federal control. This is not the Federal Government's obligation. Institutional control needs to be analyzed through the generators and the measures in place to ensure responsible storage and maintenance.
- Page 1-15, lines 16 and 17, reference is made to a dry transfer system and the construction of the same to facilitate spent fuel transfer and handling. Like the assumption of the storage facilities, there is no empirical evidence whatsoever with respect to the construction or operation of a dry transfer system (the "DTS"). The industry has no experience in building a DTS or, more importantly, transferring spent fuel or fuel assemblies from one cask to another. Will the spent fuel assemblies be intact enough to transfer in 100 years? The only experience to date does not support this supposition. The use of a DTS and the acceptability of the casks for the same must be more fully developed and cannot simply be an assumption.
- On page 1-16, lines 1-4, the Draft GEIS contradicts itself by indicating that storage in a single cask can go beyond the one hundred (100) year cycle. There is no experience or evidence to support this assumption. There is no evidence to support that casks can even last 100 years. This assumption must be removed.
- On page 1-16, lines 10-12, there is an assumption on aging management. This assumption should be blended into institutional control and measured from the stand point of a generator's ability to provide systems and appropriate funding for age management of the storage systems. Again, this assumption is made without any empirical evidence or support that generators would have the necessary funds and capabilities to ensure maintenance and safety.
- On page 1-16, lines 32-36, there is an assumption that a DTS is going to be replaced once during the life cycle of storage. This assumption is premised upon the robustness of the storage casks themselves and the ability of the generator to properly maintain the same. This assumption therefore is faulty because it is built on two other assumptions for which there is no experience or information to support the same.

- On page 1-17, lines 16-20, there is assumption that sufficient low-level waste will be disposed of properly. This assumption is false. The industry today is facing difficulty in disposing of low-level waste and it is anticipated that low-level waste will be stored at the facility until such time that it is disposed of properly. Because of this storage alongside of spent fuel, the assumption must be removed and properly analyzed within the scope of the Draft GEIS.

C. Generic Facility Descriptions and activities.

1. Under section 2.1.1.2, page 2-5, lines 10-13, the assumption regarding decommissioning and removal of spent fuel within sixty (60) years should be modified. Rather, the assumption should be that spent fuel should be moved to dry cask storage as soon as commercially reasonable. In no event, this should exceed five (5) years after the same has sufficiently cooled.

2. Under section 2.1.2.2, page 2-14, lines 1-9, the Draft GEIS should clarify, at the outset, that it has not designated any casks for transportation. Accordingly, prior to transportation, all spent fuel should be required to be transferred to transportation casks.

3. On page 2-14, lines 25-28, the Draft GEIS should indicate, in some fashion, that there are certain minimum requirements associated with storage. This should include statements regarding emergency preparedness and a specific analysis of the same.

4. Under section 2.1.4, pages 2-19 - 2-21, the Draft GEIS addresses a DTS. The Draft GEIS should be modified to include a statement that a DTS is going to be necessary based upon the assumptions within the Draft GEIS. Not only is it going to be necessary based on these assumptions, but it will be required once interim storage or permanent disposal becomes an option. None of the casks currently used for storage are approved for transport and therefore the concept of a DTS is necessary. The Draft GEIS should also reference that one may be needed earlier if there is an incident involving a breach of the storage system. What happens in the interim when the DTS is being constructed? Is there a spent fuel pool or other containment facility? This needs to be addressed.

D. Affected Environment.

1. As an overview, the Draft GEIS is flawed because it does not address a broader scope of the affected environment. Indeed, it looks solely at direct impacts (employment, transportation, and land use of the storage system

itself) and does not consider a broader indirect impact on the local community that hosts spent fuel or the surrounding area. The view on the affected environment should mirror the more expensive view taken in the Draft GEIS when an examination of social justice is provided. There, there is a more detailed and specific analysis of the impact of continued storage on minority, low-income, and other vulnerable communities.

The failure to have a broader view in the Draft GEIS diminishes the impact of continued storage on the other stakeholders. Accordingly, the analysis should be broadened or it will not fully evaluate the impact of the proposed action on the human environment.

2. Under section 3.1, page 3-1 and carrying over to 3-4, the Draft GEIS addresses land use. However, as set forth above, the focus is too narrow. For example, the PINGP is located within the City's limits. The PINGP's spent fuel, wet or dry, is also temporarily stored within the City's limits. It is not outside, not near, nor close to but located specifically within the City's limits. The continued storage of spent fuel will have a material impact on the development of the City in both the short-term and long-term timeframes. It will be the center of a dead zone that will have little if any commercial activity and will disproportionately use public safety services. Moreover, and more appropriately for land use, it will have a chilling effect on the ability of the City to develop the area around it because of the continued stigma associated with the radioactivity, the spent fuel assemblies, and the uncertainty of disposal and, for purposes of the Draft GEIS, storage. The concept of land use must be expanded.

3. Under section 3.2, pages 3-4 – 3-8, the Draft GEIS is woefully deficient in its analysis of the socioeconomics associated with continued storage. The Draft GEIS focuses only upon the direct impact that continued storage will have and not on the indirect impact associated with the continued storage. This includes but is not limited to the chilling effect that it will have on other land development in that area. This, in turn, will have a fall out related to employment and income, taxes, demography, and housing that this development would naturally bring. The continued storage will also disproportionately utilize public safety services because the City will have to maintain the necessary preparedness to respond to an incident at the storage facility. This burden is unlike any other that the City would have to maintain for a normal commercial operation within the City limits.

Continued storage will not provide sufficient taxes that would otherwise offset the need for the heightened public safety services and the necessary emergency preparedness associated with the requirements of

responding to an incident. All of these factors need to be addressed and weighed.

4. Under section 3.2.2, page 3-6, lines 5-24, the Draft GEIS identifies a number of instances where there is continued tax payment for storage facilities after plant operations cease. The Draft GEIS analysis must continue to analyze what impact this reduction of tax payments has on public safety services and how that is spread throughout the community. As noted in the Draft EA, the financial burden on the host cities will not lessen – but the revenue from property taxes will decrease. What is the impact of this? Can there be a lower level of public safety services provided?

In doing so, the Draft GEIS should also address the necessary emergency preparedness and the costs associated with the same. This is a direct material impact that continued storage has on hosts communities such as the City and it must be analyzed under the Draft GEIS.

5. Under section 3.3, page 3-10, lines 31-37, the Draft GEIS should be amended to reference that the PINGP is located within the City limits.

6. The Draft GEIS, on page 3-41, should include a new section on mitigation. Mitigation is a specific and necessary requirement for an appropriate NEPA analysis. This section would include, but not be limited to, a general description of the necessary emergency preparedness steps and requirements.

This can relate back to the impact of the ISFSI or storage system on the host community.

The failure to include any analysis, mitigation efforts, or even to address it, is a fatal shortcoming of the Draft GEIS.

E. Environmental Impacts of Reactor Continued Storage of Spent Fuel.

1. The opening section of Chapter 4 should be modified to reflect the prior comments set forth in this letter. This should include, but not be limited to, modification of the timeframe in which the analysis should take place, modification of the assumptions set forth in section 1.8.3 and further expansion of the analysis to include both direct and indirect impacts of the proposed action. Finally, chapter 4 should be amended to include a discussion on mitigation, emergency preparedness, and other impacts that a host community would be facing.

2. Under section 4.1, page 4-4 to 4-6, land use, the analysis for all time frames should be expanded to include an analysis of the chilling effect that continued storage would have on development. This would include, but not be limited to, actual land use, development of roads, sewer and gutter, as well as actual land development itself. The Draft GEIS does not, in any way, take into account the stigma associated with continued storage.

3. Under section 4.2, pages 4-6 – 4-8, the Draft GEIS should be modified to include a discussion on the indirect socioeconomic impacts of continued storage. This would include, but not be limited to, the inability to develop the land around the storage facility, decreased taxes, the continued requirement to maintain heightened public safety services and the other impacts associated with the same. There is nothing within the Draft GEIS that addresses the socioeconomic impact that this would have on an area.

4. Under section 4.12, page 4-47, lines 33 – 37 and carrying over to page 4-48, lines 1 and 2, there is reference to the rule making for certification of the cask design. It describes the various environmental requirements that are met for the same. The reader is left with a distinct impression that there was not, for the cask design, an EIS or EA completed. Despite this, the Draft GEIS indicates that it is simply relying on the same.

This reliance is inappropriate. The cask itself will be the storage vehicle for spent fuel, and as such, the analysis of the cask itself must be included within the Draft GEIS.⁶ As stated before, this analysis should include but not be limited to information from the manufacturers as to warranty and anticipated life, the original estimates for the casks and other information.

5. Under section 4.15.2.1, starting on page 4-58 and carrying over to page 4-59, the Draft GEIS discusses low-level radioactive waste that is going to be created as a result of continued storage. The underlying presumption, again, is that this low-level waste is going to be properly disposed of by the industry. This assumption, as stated before, may not be accurate. Currently, there are some facilities for the storage of low-level waste until a permanent depository can be created. However, this is not available for all generators and therefore must be stored until a facility is made available.⁷

⁶ This is a bit ironic since there is an underlying assumption that the storage system (i.e. cask) is so sturdy and robust there will not be a release from the same.

⁷ Interestingly enough, the Draft GEIS, consistent with current practice, assumes that the responsibility for the disposal of low-level waste lies with the generator and assumes that the industry will take care of this particular issue. Yet, for purposes of institutional control, the Draft GEIS substitutes in the Federal Government for the generator and its obligations to maintain storage until such time that the spent fuel is retrieved for either interim or permanent disposal. To be consistent, the Draft GEIS should analyze institutional control with the generator being the institution.

6. Under section 4.17, starting on page 4-64 and carrying over to page 4-66, the Draft GEIS addresses public and occupational health. The Draft GEIS should be modified to include an analysis regarding mitigation. There is nothing to establish or support that there would be any mitigation in the event of an incident. The inclusion of this must be analyzed in order to meet NEPA requirements.

7. Under section 4.18, starting on page 4-67 and carrying over to page 4-83, there is an analysis of the environmental impacts and postulated accidents. On page 4-68, lines 1-9, there are discussions of "additional measures... designed to mitigated the consequences of failures in the first line of defense." The discussion goes on to reference emergency preparedness plans and protective action measures. And that is it. There is no further analysis. In order to meet NEPA requirements, the emergency preparedness plans and other proactive measures must be more fully discussed and explored. These are, as acknowledged in the Draft GEIS, the mitigating measures used in a failure of the containment vessel.

8. Under section 4.20, starting on page 4-90 and carrying over to page 4-91, Table 4.2 should be modified to reflect the changes in the analysis set forth by the City in this letter. In particular, land use and socioeconomics, for all timeframes, should be modified from small or moderate to large. Likewise, public and occupational health should be modified from small/moderate to large for all timeframes.

5. Cumulative Impacts

A. Overview. The deficiencies cited by the City with the Draft GEIS previously set forth in this letter carry forward and manifest themselves in the analysis of the cumulative impacts of continued storage. These include, without limitation, the failure to analyze the indirect impact of continued storage, the failure to address mitigation and emergency preparedness, the continued reliance upon the assumptions set forth in section 1.8.3 as well as the absence of any discussion on the chilling effect that continued storage will have upon future development in the area.

It is this last deficiency that is particularly poignant in the Draft GEIS's analysis of cumulative impacts. For the City, the cumulative impact is quite simple: continued storage of radioactive material, for short or long-term, will not allow for the natural growth and progression of the City. Development in that area will either lag or become unrealized since no one will want to be located next to the storage facility. The facility, itself, will have a disproportionate drag on public safety services since readiness demands that

the City be prepared for an incident involving a radiological release. At that same time, the tax revenue from development that could normally offset this obligation would decrease or not materialize at all thereby shifting the burden of public safety costs on the other citizens of the City especially after the PINGP ceases operations.

Despite these clear impacts, an analysis of these in the Draft GEIS is missing. In order to fully complete an analysis of the cumulative impact of continued storage to satisfy NEPA requirements, this analysis must be included in the Draft GEIS.

B. Section 6.3.1, page 6-4 and running through 6-8, identifies general trends and activities upon which the cumulative impacts are analyzed. These trends, while identified and supportable, are insufficient for analysis. The primary reason for the deficiency is that they do not take into account the chilling or negative effect that continued storage of spent fuel has or will have on an immediate area. So while table 6-1 can provide guidance on positive future events there is no guidance on the negative aspect of continued spent fuel. This too needs to be identified and evaluated within the scope of the Draft GEIS.

C. Under section 6.4.1, starting on page 6-10 and going to 6-11, the Draft GEIS analyzes land use using the aforementioned general trends and activities. Nowhere does it reference the fact that there may be no development and that continued storage will be a deterrent to development. This analysis must be amended.

D. Under section 6.4.1.3, the Draft GEIS concludes that cumulative impact of continued storage on land use will be small. The City believes there is insufficient information to come to this conclusion especially when the Draft GEIS does not analyze the chilling effect of continued storage. The cumulative impact should be changed from moderate to large after the analysis described above on the negative impact of continued storage is completed.

E. Under section 6.4.2, starting on page 6-12 going through 6-15, the Draft GEIS analyzes cumulative trends and their impact on socioeconomics. Like previous sections within the Draft GEIS, there is no reference to the negative impact of continued storage. There is no reference to the costs associated with the emergency preparedness, the shift of the burden for the preparation of the same, the decrease in taxes, the inability to develop land around the spent storage system and the inability to adequately pay for street, sewer, water for such development, among other things. All of these factors need to be appropriately weighed and set forth in this section.

F. Under section 6.4.14, starting on page 6-45 and running to 6-50, the Draft GEIS analyzes the cumulative impacts of waste management. Its analysis must be modified to include, or at least account for, the fact that there may not be a facility available at any time in the near future to handle the waste generated by continued storage. The alternative, of course, is that even after removal of the spent fuel the low-level radioactive waste will continue to need to be stored and paid for by the generator.

G. Under section 6.4.16 and 6.4.17, running from pages 6-53 – 6-57, an analysis of mitigation needs to be set forth. Mitigation is a necessary NEPA component that must be addressed. A failure to do so is a flaw that may result in a challenge to the Draft GEIS or the GEIS in its final form.

6. **Summary of Environmental Impact.**

A. **Overview.** The summary of environmental impacts, overall, needs to be modified to include the City's recommended modifications to the Draft GEIS. In addition, the summary should, as a separate section under the same, include an analysis of mitigation.

B. Under section 8.1, starting on page 8-2 and running to page 8-5, the Draft GEIS sets forth a number of tables that summarize the impact from continued storage both at a reactor and away from a reactor. These tables should be modified to reflect comments of the City and to increase the impact on land use, socioeconomic and other areas from small to moderate or large. Moreover, each of these should indicate that the impact is going to be site specific and will be dependent upon the immediate surrounding area. Again, for the City, with a location of the PINGP and the storage within the City limits, the impact on all of these will be large.

C. Under section 8.4, starting on page 8-9 and continuing to 8-10, the productivity analysis needs to be expanded. This expanded analysis would include an evaluation of the long-term impact on productivity where there is an indefinite storage at a site. There is an indirect impact or chilling effect that continued storage will have on the natural development of the area around it. There will also be opportunity costs for the City (or any other entity that continues to provide first responder services) associated with the costs of continuing to maintain an emergency preparedness plan. These costs must be analyzed or at least put forth for an analysis in section 8-4.⁸

⁸ This analysis would also find its way back into the cost benefit analysis set forth in chapter 7 of the Draft GEIS.

D. Under section 8.7, page 8-12, the Draft GEIS, and the NRC recommendation, is to select the proposed action. The City agrees with this recommendation. However, the necessary changes in the Draft and Final GEIS, as described by the City, should be included.

7. **Miscellaneous.**

A. Miscellaneous is intended to cover the exhibits or appendix attached to the Draft GEIS. Again, the comments of the City set forth above should be considered in light of these and incorporated in the suggested changes below.

a. **Appendix B**

i. Appendix B addresses the technical feasibility of continued storage and repository availability. The technical feasibility of continued storage is based upon a series of underlying assumptions and conclusion about the robustness of the storage facilities. These assumptions, among other things, fail to include any sort of analysis from the manufacturer in the form of warranties or recommended useful life. Moreover, again, there is no discussion of mitigation which is necessary to address the steps associated with an incident to contain any adverse environmental impact.

ii. Under section B.3.2, the Draft GEIS addresses technical feasibility of dry cask storage. Within its analysis, it includes a discussion of the "robust design of dry cask storage systems." As state above, this assumption has no support for the time frames being analyzed.

iii. Under section B.3.3, there is analysis of the regulatory oversight of wet and dry spent fuel storage. In this analysis, there is an assumption of institutional control through regulatory oversight and license compliance. Institutional control goes beyond oversight and must include an analysis, or at least a description, of the entities that are to be providing the structures, systems and programs for responsible storage before a permanent repository can be found. In addition, the analysis must identify where the funds will come from to properly ensure these items are completed.

b. Appendix E

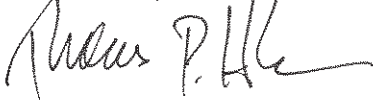
i. Appendix E provides an analysis of spent fuel pool leaks. However, it does not contain any analysis of mitigation including a description of the emergency preparedness or what will be required in the event of a pool leak. In short, the Appendix does not provide the necessary support for an appropriate NEAP analysis on mitigation.

The City again would like to thank the NRC staff and all those responsible for this important undertaking. The City looks forward to continuing to work with the NRC and all of its staff to address this very important issue.

If the City can provide any further information or expand upon the comments set forth herein please do not hesitate to reach out and contact me.

Very truly yours,

MADIGAN, DAHL & HARLAN, P.A.

A handwritten signature in black ink, appearing to read "Thomas P. Harlan", written over a horizontal line.

Thomas P. Harlan
TPH/kk

cc: The City of Red Wing, Minnesota

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December 19, 2013

Ms. Cindy Bladey
Chief
Rules and Directives Branch
Division of Administrative Services
Office of Administration
Mail Stop: 3WFN 6A44
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Ms. Bladey:

Re: City of Red Wing's Comments to the Draft Environmental Assessment for the
Proposed 40-year License Renewal of the Prairie Island Independent Fuel Storage
Installation in Red Wing, Minnesota
Docket ID NRC-2013-0251

As you are aware, this firm represents the City of Red Wing, Minnesota (the "City") with respect to the above-referenced matter. We submit these comments on behalf of the City to the Nuclear Regulatory Commission (the "NRC" or "Commission") in response to the Draft Environmental Assessment (the "Draft EA") prepared by the Commission as part of the relicensing of the independent spent fuel storage installation (the "ISFSI") located outside the Prairie Island Nuclear Generating Plant (the "PINGP"). These comments by the City should be read in conjunction with its comments to the Commission on the draft Environmental Impact Statement (the "Draft GEIS") currently being completed. A copy of the City's comments to the Draft GEIS are attached hereto. The City thanks the Commission for the opportunity to submit comments to the Draft EA and looks forward to working with the Commission, its staff, and consultants to address the very important issue of the relicensing of the ISFSI of the PINGP.

BACKGROUND

The City is the host community to the PINGP, which is a dual reactor 1118 MW facility. Immediately adjacent to the PINGP, sits approximately twenty-nine (29) individual dry casks in which are stored spent nuclear fuel rods. In addition, the PINGP spent fuel pool, like all others, contains spent fuel that has been unloaded from the reactors and is waiting to be transferred and stored in certain specifically designed casks. It is anticipated that at the end of the life of the PINGP, which is currently scheduled in 2033 and 2034, and following the

appropriate holding or cooling off period for the rods, there will be approximately ninety-nine (99) casks located on the ISFSI.¹ Like the PINGP, the ISFSI is within the City's limits.

The City and Northern States Power Company d/b/a Xcel Energy (the "Company") have worked together over the years to first site and thereafter solve many of the issues associated with the PINGP. The City has been supportive of the Company and its efforts to maintain not only the PINGP but the ISFSI in a reasonable and safe fashion. However, the City, like many other host communities, is now facing a scenario that it did not, under any set of circumstances, envision: the failure of the Federal Government to honor its contractual agreement with the Company and remove the spent fuel from the PINGP to either an interim storage facility or a long-term or permanent repository.

The City is uniquely situated to provide input on the Draft EA. The City, in all respects, is a first and primary responder to any incident at the PINGP or the ISFSI. It is obligated, under both federal and state law, to provide reasonable assurance that it has the necessary facilities and infrastructure to meet and respond to any incident at either facility. The City, to honor this social compact, is obligated to maintain a steady state of readiness through an investment in and maintenance of the necessary equipment and personnel, as well as the necessary buildings to locate the same. The City has and continues to do so despite the continued reduction of revenue to the City from the Company for taxes on the PINGP. The City, in turn, has been forced to shift this burden to its other taxpayers who, since 1996, have seen their property taxes increase over 188%. This is a burden that they cannot continue to bear.

THE DRAFT EA AND CITY'S COMMENTS

According to the Draft EA, there has not been a determination whether a final EA should be issued or if the Commission, for purposes of the relicensing of the PINGP ISFSI, can meet its obligation with a FONSI. The City does not believe that a FONSI is warranted or can be supported. The Draft EA, with its intermittent narrow and expanded focus on the various factors that are to be evaluated for such a determination, fails to take into account crucial, material information.

This includes, without limitation, a truly comprehensive review of the immediate and cumulative impacts of the continued storage of spent fuel. Like the Draft GEIS, the Draft EA artificially segregates issues and analysis deferring to other reports or studies. As detailed below, these reports and studies were completed outside of the newly recognized reality:

¹ The precise number of casks that will hold spent fuel has not yet been determined since the PINGP is using a different fuel assembly that burns hotter and longer in the reactor and thus requires replacement or refueling at a different rate. Accordingly, the number of casks originally calculated as being necessary for end of life storage of spent fuel may be lower or higher depending on when refueling occurs and how many fuel assemblies can be placed into the casks. Though the casks are larger to accommodate the larger fuel assemblies, it is unknown if the new casks will hold the same number of spent fuel assemblies as the casks that are currently being used. In addition, as noted by the PINGP's owner and operator, Northern States Power Company d/b/a Xcel Energy after the decommissioning of the PINGP, low level nuclear waste will continue to be stored on-site until the same can be disposed of properly. It should be noted that this low level nuclear waste is the responsibility of the generator (i.e. the Company) to dispose of – not the Federal Government.

spent fuel storage is going to continue indefinitely at the ISFSI and other storage facilities around the country. With this understanding, the City believes that the relicensing of the PINGP ISFSI for an additional forty (40) year period will have a material impact on the City, as well as the general area in which it provides services.

In presenting its comments, the City will break these out into two (2) categories. The first category is general comments. This is an overview of the Draft EA in certain areas and an analysis of where the same is deficient. This will also include, but not be limited to, a review of assumptions made by the Commission in preparing the Draft EA. The second category will address specific points within the Draft EA itself with a discussion on what could or should be supplemented. This also includes a discussion on missing items and follow-up in order to make the Draft EA more complete.

The import of these two categories of comments leads to the un rebuttable conclusion that an EA, in complete form, is necessary in order to evaluate the relicensing of the PINGP ISFSI. The proposed action of relicensing the ISFSI for another forty (40) years does have a large and significant impact on the human and material environments that surround the ISFSI.

A. General Comments.

1. The Draft EA assumes that past experience of storage and the robustness of the equipment that comprises the ISFSI are sufficient. The Draft EA, like the Draft GEIS, makes a number of assumptions to reach a presumptive conclusion that the continued storage of spent fuel is safe and does not pose a risk. This conclusion is simply not supportable.

- a. Experience.

The Draft EA relies upon and references the experience associated with dry cask storage. This experience must be discounted because the Commission, like the industry as a whole, is learning in real time. When the PINGP, or any other nuclear power plant was built, there was no consideration given to dry cask storage, or, for the PINGP, that spent fuel would still be on site in 2013 – 25 years after it was to be removed and 40 years after operations started. Rather, there was a belief that there would be, this time, not only the development of a permanent depository but the removal of the spent fuel from the PINGP. This removal was to start in 1987 and, given a PINGP's queue position, would be complete by today.

The experience for the ISFSI is one garnered by necessity not plan. When it became apparent that spent fuel was not going to be removed from the PINGP in a timely fashion, there were accommodations made to increase storage of spent fuel assemblies in the spent fuel pool. After a decade or two of racking and re-racking spent fuel rod assemblies, the Company in the early 1990's was forced to move to dry cask storage. That "temporary storage" has continued for over 20

years in casks that were not designed to be transfer casks or permanent storage casks, but simply temporary storage casks. But for how long? What was the original thought behind that storage? Thus, the experience the Commission cites is being realized by each passing day, not by a process that has been completed and is now being repeated. The Commission, like the City, finds itself in a position that it never anticipated and is struggling to determine how to best address the issues associated with continued storage. Experience, then, is not a factor the Commission can rely upon.

In fact, experience would lead to the opposite conclusion: storage will not be limited to 40 years or any other time frame. Rather, it is permanent. The City uses the word permanent because there is no other time frame that will apply. It is unknown when the spent fuel will be removed. Any indicators that this removal will occur in the near future have been removed or not acted upon. Yucca Mountain has been removed as a solution and there is no action on any resolution suggested by the Blue Ribbon Commission Report. Removal is no closer today than it was in 1973 when operations at the PINGP commenced.

On many levels, patience with the creation of a solution has been exhausted. Nowhere is this more obvious than in the Federal courts. The deference given to the Commission and the Department of Energy has simply evaporated over the issue on the Waste Confidence Rule and the continued collection of fees for permanent storage. The Federal courts, like the stakeholders, have lost confidence a solution is imminent and no longer have the patience to pretend this is so.

Experience, then, instructs that no solution on permanent storage or removal is forthcoming. With that reality, the experience associated with the unintended practice of spent fuel storage in casks at the ISFSI or anywhere else is not a substitute that the Commission can rely upon in the Draft EA.

b. Robust Equipment.

The Draft EA, as a corollary to experience, cites to the robustness of the TN-40 casks and the newly authorized TN-40HT casks as being a reason storage is or should not pose a risk. However, it does not have any analysis of the casks themselves by the manufacturers of the same. There is no discussion of the manufacturer's warranty of the casks that are being used or useful life associated with the same. Instead, the Draft EA, like the Draft GEIS, simply draws its own conclusions without any further support.

It would seem obvious that the manufacturer's statements/information/limitations of the equipment being used would be included in the Draft EA. This is especially true where the Draft EA's very purpose is to evaluate whether continued storage will have an impact on the natural and socioeconomic

environments in which the ISFSI is to be located. However, the Draft EA does not even give a perfunctory analysis or treatment of any comments by the manufacturer.

The Draft EA also ignores any information associated with the components of the equipment being used at the PINGP ISFSI. The TN-40 and TN-40HT casks are iron and concrete. There is no analysis on whether these components will degrade over time or, if so, how the same can be maintained. This is particularly important given the analysis of the Department of Energy in the Yucca Mountain Environmental Impact Statement and its use and reliance upon a concrete study done in St. Cloud, Minnesota. This concrete study is neither mentioned nor in any way included in a Draft EA.

Finally, in addition to the lack of experience cited above, there is no experience with the TN-40HT cask and the new fuel rods. The TN-40HT cask, in fact, did not even go into production until 2009. Its purpose was to store the new fuel assemblies that were to be (and are now being) used at the PINGP. These fuel rod assemblies burn hotter and longer than the rods that were previously used. There simply is no experience with them. The Draft EA, then, should not rely on assumptions of experience and robustness of the equipment used where none exists.

Instead of these assumptions (which mirror nuclear industry assumption that nothing will go wrong-until it does), the Draft EA should specifically work through the characteristics and qualities of the casks. This should be done in light of the manufacturers' warranties, the past statements on the use/durability of the casks (especially when these were first being put in place) and the anticipated storage life of the same. This last point should also include reference to the Draft GEIS and its storage timelines.

2. The Draft GEIS is essentially ignored. The purpose of the Draft EA is to examine site specific impacts associated with the PINGP ISFSI. In doing so, the Draft EA, at different parts, references the Draft GEIS being completed and its general coverage of certain issue outside of the scope of the Draft EA.

The problem is, of course, the Draft GEIS is just that: a draft. It is not complete and will not be complete in time for the analysis under the Draft EA. As such it is impossible for the Draft EA to incorporate this incomplete document into its own analysis or to utilize that to support a FONSI determination.

This is a fatal flaw in the Draft EA and runs contrary to the Commission's own directive that re-licensing activities reliant upon the old Waste Confidence Rule be put on hold. With the purported interplay between the Draft EA and Draft GEIS, the Draft EA and any determinations regarding the same must be put on hold.

The lack of interplay between the Draft EA and the Draft GEIS also represents a fundamental flaw in the scope of analysis by the Commission as it relates to the PINGP and ISFSI, in particular, and the continued storage of spent fuel, in general. There is, between the two, an unnatural segregation of scope and responsibility so much so that two rarely cross over to provide any substantive analysis.

Comprehensive analysis is avoided not only through this segregation but also through various assumptions and reliance upon other reports that were done years ago. These reports may no longer be reliable. The reason for this potential lack of reliability is three-fold: first, the Commission, along with everyone else, is learning in real time. The date(s) for removal of the spent fuel have come and gone, and the systems for storage were developed out of necessity rather than design. Second, these reports all, in part, may have been created in reliance upon or with the old Waste Confidence Rule in mind. Since that Rule is no longer effective, these reports may likewise be tainted. Third, if the directive of the Draft GEIS is to be fully implemented then the past reports/analysis must be viewed in light of the no-build scenario. That directive must find its way into the Draft EA.

The reality is that the spent fuel generated by the PINGP is going to be permanently stored at the ISFSI within the City's limits. There is, and has been, no substantive plan by the Federal Government to remove this waste. There is simply no long-term solution and the limited forty (40) year of the license does not give the Commission a fair and full analysis of the real impacts of continued storage. Likewise, the Draft GEIS excludes any analysis to site specifics and instead simply discusses generalities. It too, as is stated by the City in its comments to the same, is for the purposes of continued spent fuel storage, flawed.

3. There is insufficient analysis on negative impact of continued storage. The Draft EA, in part, does not provide sufficient analysis of the negative impacts of continued storage. Instead it focuses solely on the positive impact in the form of continued employment, growing housing, and continued taxes. It does not contain a complete analysis of the chilling effect of continued storage. While the Draft EA does, in part, address this issue relative to the Prairie Island Indian Community (the "PIIC") it does not do so with respect to the City. In order to have a full evaluation of the impact during the next forty (40) years, the Draft EA must fairly consider the nature of the items being stored within the City limits: some of the most toxic material known to man.

The chilling effect must be analyzed through, among other things, the impact on the City's growth and its land use in the future.

4. There is no analysis on PINGP closure.

The Draft EA also does not fully evaluate the timing of what is to occur with the PINGP and the ISFSI over the next relicensing period. In the Draft EA, relicensing for the ISFSI is evaluated for an additional forty (40) years.² This extends the ISFSI license to 2052. However, by 2033 and 2034, respectively, the PINGP as a nuclear generating electrical plant, will cease operations. What does this mean? What will be the impact on the City from a tax revenue standpoint? What will be the impact on the City to continue to maintain the necessary readiness to respond to an incident? Is it possible for the City to reduce its readiness because of the purported robustness of the equipment used in the ISFSI?

The answer to this last question is, of course, no. The City must be ready for any incident, radiological or non-radiological, regardless of whether the same comes from plant operations or continued storage³. As is noted by the Draft EA, in section 4.3, the City will face the same “financial burdens such as expenses associated with participation and PINGP-related actions, emergency planning, and steps required in the event of an accident [e.g. educating the public on risks and procedures; maintaining special medical supplies (iodine tablets), equipment, in trained professionals] would also not change and would continue to impact, in the same manner, communities within the ROI.” Draft EA, section 4.3, pg. 4-4. The Draft EA does not evaluate this statement any further nor analyze what it would mean to the City. This must be included in order to fully evaluate the immediate and cumulative impact on the socioeconomics associated with continued storage for an additional 40 years.

As provided in more detail below, the impact of continued storage on the City is large and significant. The Draft EA must include and further develop this analysis.

B. Specific Draft EA Comments.

With respect to the specific comments on the Draft EA, these are organized by the appropriate section within the Draft EA. In addition, please note that some of the comments refer to a report that is attached to these comments as well as documents that are outside the same.

² Indeed, the best approach is to relicense the ISFSI for 20 years, not 40 years. By limiting the relicensing to 20 years, the next relicensing will occur at a time contemporaneously with the termination of the PINGP's operation. By coordinating the expiration of the license for the ISFSI with the cessation of operations of the PINGP, the Commission will have the ability to fully examine the impact of the closure of the PINGP and the true costs and requirements of continued storage at the ISFSI.

³ It should be noted that numerous spent fuel assemblies will still be in the cooling pool since the same will be too radioactive to transfer to dry cask storage. This factor, as well as the closing of the plant, was not addressed in the Draft EA.

1. The concept of the affected environment is too narrow. In section 3.0 of the Draft EA, the Commission lists, as the affected environment, the one that “currently exists at or around the PI ISFSI. The existing conditions that have shaped the environment or at least partially the result of past construction and operation of PINGP 1 and 2 and the PI ISFSI.” Draft EA, Section 3.0, page 3-1. This definition is too narrow for a number of reasons.

First, the purpose of the Draft EA is not to evaluate the affected environment in a static fashion but to do so dynamically and over the period of the purposed relicensing timeframe. It does not do so. The proposed relicensing runs to 2052 or 2053. The City will grow and expand during this time. To limit the affected environment to the area that currently exists at or around the ISFSI does not fit within the purpose parameter of the Draft EA.

Second, the Draft EA does not take into effect the negative impact that continued storage of spent fuel will have on land use in the surrounding areas. As is acknowledged in the 2011 Blue Ribbon Commission Report, spent fuel has a well-deserved stigma attached to it. It is, by definition, some of the most toxic material known to man. The radioactivity of the spent fuel is so intense that exposure to it at a different time frame may cause immediate death. Draft EA, Section 4.0, page 4-20, fn. 1. The continued storage, then, of spent fuel in casks within the City will have a negative impact on its development and/or land use well into the future. Accordingly, the concept of land use and the impact on land use must include this negative stigma.

Finally, the narrow description provided in section 3 is, in part, contradicted by the Draft EA’s later analysis of land use of the PIIC. While admittedly, the use of land by the City will be different than the use of land by the members of the PIIC, the psychological impact is the same: people do not want to locate their homes or businesses next to dry cask storage. The Draft EA must include an analysis of the negative impact on land use continued storage would have on the City – especially since the ISFSI will remain in the City’s limits. This analysis would include, but not be limited to, an analysis on the stunted growth of the City, as the host community, and what this would mean to businesses that are already located there. This could also extend to an analysis on the lost taxes or revenue that would flow to the City from the same.

2. Section 3.3, demography and socioeconomics, is too narrow.

Section 3.3, which broadly covers a number of different socioeconomic issues, fails to appropriately identify or analyze the same in depth. The

result, then, is that the impact of continued storage is not effectively evaluated.

- Local Finance. On page 3-8, the Draft EA describes local finance. This only addresses payments to the City by the PINGP in the year 2010. There is no historical data about how these payments have declined over time, how the tax burden has shifted to other tax payers in the City since 1996, or how this declining revenue has impacted the City.

Likewise, there is no discussion of how the changes to the state tax code for utility companies in Minnesota have resulted in a 26% reduction in taxes to the City or how the PINGP and the ISFSI can use state tax exemptions to shield improvements, upgrades and maintenance from being taxed.

Finally, the concept of local finance does not take into account what taxes will be paid to the City after the PINGP ceases operations in 2033 and 2034. There is a possibility that the ISFSI will be taxed in such a limited fashion that it will be the equivalent of a parking lot. The Draft EA must be amended to reflect the history and decline of tax revenue and the impact of the same. This is information that both the City and the Company should provide to the Commission. While some of this may be found in the documents filed in the Company's Certificate of Need proceeding before the Minnesota Public Utilities Commission for additional dry cask storage in 2008, that information is no longer fully reliable and needs to be updated and/or revised in light of changed circumstances.

- Utilities and Services. Under utilities and services, the Draft EA goes to great length to discuss the police department that is maintained by the PIIC and how it will respond to incident at the PINGP or the ISFSI. This analysis exhibits a lack of understanding on what is necessary to respond to an incident at a facility that uses and stores nuclear fuel.

As noted by the Draft EA, the PIIC has developed and maintained its own private police force and the City has a mutual aid agreement with the PIIC regarding that force. However, the City has a mutual aid agreement with virtually every local municipality and county in a forty (40) mile radius of its borders. This is done for two (2) purposes: first, to ensure that this continuity in providing services to the citizens of that area, and second, to ensure that those entities, in the event that the City needs additional

support, will come to their aid and have the jurisdiction to do so.

But before any mutual aid agreement is invoked and a response from the PIIC or any other community requested, the City for all incidents within its borders, must first respond, assess and then request that aid be provided. This is fundamental to the jurisdiction of the City and instrumental under all of the mutual aid agreements it has in place-including the mutual aid agreement with the PIIC.

With respect to the necessary equipment and facilities and personnel required to respond to an incident at the PINGP or the ISFSI, it should be pointed out that the PIIC does not have any ambulance, paramedic or fire services. In fact, the PIIC, like the other residents in the 462 square miles around the City of Red Wing, rely upon the City to provide those services. The PIIC does not have an emergency coordinator nor are its facilities designated by the state and federal governments as being the facilities in which to coordinate a response.

It is the City that signs off and provides reasonable assurance to the State of Minnesota and to the NRC that an emergency preparedness plan is in place and that, in the event of an incident, an appropriate response will be provided.

Accordingly, the section on utilities and services must be modified to reflect that the City, in all respects, is the primary and first responder. It provides the necessary public safety services to respond in the event of an incident and the PINGP or ISFSI. While the PIIC may assist in this process, its assistance will be limited to only police and not to any of the other fire or ambulance or paramedic services that will more than likely be necessary in the event of an incident.

3. Under Section 3.11, there needs to be a discussion of Emergency Preparedness. Section 3.11 addresses public and occupational health and safety. It identifies, in very general terms, certain incidents and concludes that there is or would not be a likelihood of any release from the systems being used. The Draft EA, again, relies on the robustness of the casks that contain the spent fuel as being able to withstand the incident.

Simple reliance on the robustness of the casks is insufficient. The Draft EA should have a separate section on Emergency Preparedness to address the issue of what if the containers or casks would break down. Included within this Emergency Preparedness section would be an analysis of the

TN-40 and TN-40HT from the manufacturer's perspective including, but not limited to, the precise makeup or composition of the casks, the warranty period, as well as a useful life.

In discussing the Emergency Preparedness plan, the Draft EA should analyze what that currently entails with respect to the continued operation of the PINGP as well as what that will look like once that operation ceases. In other words, in 2033 and 2034, respectively, what will the Emergency Preparedness plan look like or be required? Emergency Preparedness is an absolute necessity. The NRC, for operations of the PINGP and the ISFSI, requires reasonable assurances that such a plan is in place and that there will be a response in the event of an incident. It also conducts annual exercises to evaluate the same.

In the Certificate of Need proceeding for the Minnesota Public Utilities Commission regarding expanded storage of spent fuel outside of the PINGP, the Minnesota Public Utilities Commission (the "Minnesota PUC"), upon the recommendation of the administrative law judge, placed a condition on the Company's license. The Minnesota PUC also requires that the City provide reasonable assurances that it can meet the requirements of the Emergency Preparedness Plan for the PINGP and ISFSI. The Draft EA should be modified to reflect these circumstances.

4. Under Section 4.1, Land Use, the Draft EA must expand beyond the physical imprint of the ISFSI. Section 4.1 of the Draft EA limits the impact on land use to the specific area that compromises or is next to the ISFSI. In other words, there is no analysis, whatsoever, on the chilling effect that the continued storage would have on the natural development and growth of the area around the ISFSI for the City.

The analysis of land use under the Draft EA must be expanded to include an analysis of future land growth in the next 40 years. As previously noted, the PINGP and ISFSI are both within the City's limits. It is a natural and progressive process that will lead the City to develop in and around the area that both of these are currently located. The chilling effect of continued storage must be considered.

This area would not be available for growth and could have the effect of stagnating growth within the City. The EA should note that the City, in many ways, is geographically restricted on how it can grow: with the Mississippi to the east and bluffs and other hills to the south and west, the natural growth pattern is to the north. While this has occurred along Highway 61 running to the north, it is only natural that the area between Highway 61 and the river be made available for and be used by new businesses. This is precisely where the ISFSI is located.

Not only is this analysis necessary in order to fully address the impact of continued storage, it is fair given the additional scope of review provided by the Draft EA regarding land use by PIIC. Specifically, on page 4-2, and carrying over to 4-3, the Draft EA addresses the use of the land by the members of the PIIC. The language describes, in essence, the chilling effect that continued storage would have on the use of their land adjacent to the ISFSI. The City too will suffer from the continued presence of the ISFSI as it relates to the development of the land around the same. Accordingly, fairness dictates that this be included, from the City's perspective, within the Draft EA.

5. Section 4.3, Socioeconomics, must be modified to address the City as first responder and its role regarding the same, taxes and change the impact from small to large. Section 4.3, which addresses socioeconomics, cites to a number of factors to reach the conclusion that "no change (direct or indirect) to the local economy would result from the proposed action and thus the potential socioeconomic impacts will be SMALL and, thus, would not be significant." See Draft EA, Section 4.3 at p. 4-4. In support of this conclusion the Draft EA cites to the burdens of a first responder, the impact of any taxes being paid to the City, as well as the financial burdens for continued emergency preparedness. After these factors are appropriately weighed, it is clear that the proposed action of continued storage will have a significant and large impact..

- a. City as first responder.

Section 4.3 at the outset fails to appropriately recognize the role of the City as the first responder. It is the City that provides reasonable assurances to the State and Federal government that it will respond to an incident at the PINGP or ISFSI.

The PIIC makes reference to the fact that it is a de facto host community and that it is a first responder to any incident due to its police department. While the PIIC has also been and continues to be materially impacted by the storage of spent fuel, the assertion of host city and first responder are not supportable. The spent fuel has and will continue to be stored within the City limits. The City has, and will continue to be, obligated to respond to any incident at the PINGP and/or ISFSI using all of its reserves. The City and its citizens has and will continue to be obligated to pay for this heightened and exaggerated state of preparedness necessary to respond to such an incident.

While the PIIC has only recently developed and maintained a police force, it has not invested in ambulance, fire trucks, or other buildings, personnel

or equipment. Rather, the PIIC, like many others in the region, depends upon the City to provide these services in the event of an incident, including one at either the PINGP or Treasure Island, the casino that the PIIC owns and operates on its own tribal land. While the PIIC police department will undoubtedly enforce the law and respond when requested by the City, it cannot meaningfully respond to an incident that involves a fire, a breach to any of the containment facilities, or an injury that results from the same. Nor does it have (or can provide) any coordination of the delivery of any of these services. This too is provided by the City.⁴

b. The City's Responsibilities and Capabilities.

The Company and PIIC are not the only group or entity that rely upon the public safety services of the City. The City serves over 64 square miles of coverage for its fire safety services and over 462 square miles of coverage for its ambulance services. This extended area includes an area just south of Hastings, Minnesota to north of Lake City, Minnesota, and then east into Wisconsin.

In 2008, the City had an independent study completed to assist it in assessing its ability to provide public safety services. This report, which is referred to as the 2008 Public Services Report (the "Report"), concluded that the City needs to increase its public safety services in order to effectively serve the City and other areas that it is responsible for serving. A copy of the Report is attached hereto. The Report recognized not only the wide range over which the City provided services, but also recognized the widely scattered high risks within the City including targets such as PINGP and the PIIC Treasure Island Casino. Indeed, each of these were specifically identified and described in detail.

The Report recommended that the City add two additional fire stations, increase its full time and full time equivalent fire/ambulance services by 36 fire fighters, and purchase the necessary equipment to support the same.⁵ The City has not implemented any portion of the recommendations

⁴ The PIIC also stated that it expends "considerable financial resources participating in state and federal regulatory proceedings for the PINGP units 1 and 2 and the ISFSI (federal only). There is no other governmental entity (e.g. City of Red Wing, Goodhue County, or the State of Minnesota) participating in these proceedings at the same level as a PIIC." Draft EA, Section 4.3, p. 4-4. While it is true that the PIIC has participated in certain proceedings, it should be noted that it is prohibited from participating in others. The agreement the PIIC and the Company reached regarding the storage of spent fuel prohibits the PIIC from participating in certain proceedings in exchange for payments in the future. In addition, the PIIC has chosen not to participate in lobbying the Minnesota legislature for changes to some of the underlying laws regarding the continued storage of spent fuel in the state of Minnesota. This includes, but is not limited to, the changes to the calculations for the decommissioning of the PINGP and how ISFSI should be accounted for as part of the same.

⁵ Interestingly, one of the additional fire stations was to be located close to the Treasure Island Casino in order to service the high number of calls that originate from that facility.

of the Report. In fact, the City went in the opposite direction: it developed a plan to reduce its expenditures of public safety services. The plan included, but was not limited to, a plan for not filling open positions; cutting or freezing expenditures (such as, for example, the proposed increases recommended by the Report); and cutting positions, including positions in public safety. As a result of this plan to reduce expenditures and other changes that have been implemented to date, the City's ability to continue to provide the critical and necessary public safety services has been compromised.

c. Revenues to the City will decrease but its obligations and financial burdens will remain the same.

Section 4.3 also fails to take into consideration that during the time frame of the proposed action, the PINGP will cease operations. This cessation of operations will have a significant impact on the taxes the Company pays to the City. Property taxes paid by the Company on the PINGP have decreased from approximately \$23.4 million dollars in 1996 to \$10.7 million dollars in 2010. It is anticipated, by the Company, that these amounts will steadily decrease over time. Application for License for Additional Dry Cask Storage to the Minnesota Public Utilities Commission, Exhibit J, page 2-28. There are many reasons for this decrease. First, the general age of the PINGP itself has resulted in a reduction in the overall taxable base upon which taxes are calculated for the Company. Second, in 2006, effective for the calendar years 2008, 2009 and 2010, the Minnesota Department of Revenue established amended rules regarding how the PINGP's property and equipment would be assessed and valued for property tax purposes. The result of these amended rules provided the Company with a tax break for its power generating facilities, including the PINGP.

To address the deficiency created by the Department of Revenue changes, the state passed a measure called Utility Valuation Transition Aid. The sole purpose of this statute was to make up for the deficiency between the amounts that would have been paid under the old Department of Revenue rules and those that are now being paid utilizing the amended rules. Utility Valuation Transition Aid expired in 2011.

Finally, the Company has continued and expanded its use of pollution control property tax exemptions. The State of Minnesota, in recognition of the generation of electricity from "green alternatives", has afforded the Company, and other electricity generators, exemptions for many of the improvements, replacements and upgrades to various generating facilities. This includes the PINGP. The PINGP is exempt because it does not emit carbon as a byproduct of its operations and thus is considered a green

alternative for a generation. Indeed, it is possible for Xcel Energy to declare all of its spent fuel casks as being pollution control equipment and therefore exempt from property taxation.⁶ Accordingly, the amount of reduction in the payment of property taxes following cessation of operations at the PINGP will be significant.

During the course of the Certificate of Need proceeding, the Company introduced evidence that a planned power uprate of the PINGP would more than offset any of its acknowledged reduction in property taxes. The Company reasoned that the improvements to the facility, which were projected to be in the hundreds of millions of dollars, would result in a significant increase in property taxes that would be paid to the City.⁷ However, the Company has since abandoned its plans for the power uprate. While there has been investment into the PINGP, it is unknown what impact this would have on tax revenues to the City. Regardless of any temporary increase this may bring, as the Company itself has acknowledged in its Environmental Impact Statement in support of its application to relicense the PINGP, there will be a continued and steady reduction and payment of property taxes to the City over the remaining life of the PINGP. And in 2033 and 2034, it will be reduced dramatically.

⁶ This statement came on the cross-examination of Joseph Rheinberger, an expert appearing on behalf of the Company during its Certificate of Need proceeding for the Minnesota Public Utilities Commission. However, the City has since learned that the Company, many years ago, agreed to not declare the casks as being exempt from taxation as pollution control devices. However, with the changes on how property taxes are calculated under the new Department of Revenue rules, it is uncertain if the casks, and the underlying ISFSI, will be considered anything other than an empty undeveloped field owned by the Company. Spent fuel, and the storage of the same, is not considered as an externality in the production of electricity.

⁷ In addition, the Company argued that any incremental costs to the City to support an emergency response plan are reimbursed under Minn. Stat. § 12.14. The evidence presented by the Company was not credible. The Company's witness had neither operated nor managed an emergency response program, or had he researched, examined, applied for or reviewed the kind of expenditures that are approved under Minn. Stat. §12.14. The Company's witness, in fact, had no experience with either an emergency response plan, in general, or the one for the ISFSI, specifically, or Minn. Stat. §12.14.

The Company also argued that any loss of revenue to the City would be made up by Utility Transition Aid. This program expired in 2011.

Finally, the Company argued that the emergency response plan will remain effective due to the Company's own fire brigade and mutual aid agreements between the City and other local governmental entities. Regarding the fire brigade, the Company could not establish, one way or another, whether that brigade would be available in the event of an incident. The makeup of the brigade are Company employees who may be busy attending to their own job responsibilities in the event of an incident.

Regarding mutual aid, the Company, again, presented it through a witness who had no experience or understanding of the same. Moreover, mutual aid is not a substitute because it involves the request and response of other cities and municipalities who may or may not have the same equipment or even be able or willing to respond to a request for mutual aid. In short, all of the arguments presented by the Company, including their argument for additional revenue as part of a planned power uprate, cannot be supported. In short, it is the City and its emergency response plan that is key to responding to any incident.

“Despite this reduction in the payment of property taxes, the City, as the first responder, will be obligated to maintain its continued state of readiness to respond to any incident at the PINGP. Indeed, as the Draft EA acknowledges, the “financial burdens, such as expenses associated with participation in PINGP related actions, emergency planning and steps required in the event of an accident [e.g. educating on risks and procedures; maintaining special medical supplies (iodine tablets), equipment and trained professionals] would also not change and would continue to impact in the same manner communities within the ROI.”

This begs the question: How is this gap going to be filled? The other citizens of the City have already seen a 188% increase in their property taxes from 1996 to present. The City cannot go to them again. The state’s supplemental fund for incremental financing (Minn. Stat. 12.14) does not allow the City to tap it for new firehouses, equipment, or to pay full time employees. There is no additional revenue coming from the PINGP as the result of a power uprate and, as the Company acknowledged, the tax rate will continue to decrease over the life of the PINGP.

Based on all of these factors, the potential socioeconomic impact of the proposed action is large and the Draft EA should be amended to reflect the same.

6. Under Section 4.11, an Emergency Preparedness Plan should be addressed. Under Section 4.11, the Draft EA goes to great lengths to discuss a number of potential incidents that may impact the ISFSI. For each of these, it concludes, based upon experience and the robustness of the casks used, that there is a small likelihood that there will be any release or threatened release from the same.

But what happens if there was a release? What happens if the systems are not as robust as the Draft EA assumes they are going to be? This is where it is appropriate to evaluate emergency preparedness or an emergency response plan. The lack of an effective response to an incident at the PINGP or the ISFSI, whether that incident is radiological or non-radiological, may result in that incident spiraling out of control. There will not be effective suppression, containment or mitigation.

An example of necessary effective emergency preparedness or an emergency response plan would be in response to the fire scenario presented in the ISFSI on page 4-16 of the Draft EA. There, assuming a 757-L is a Boeing 757 plane, the presumption set out are simply unrealistic. First, the jet fuel from a plane would burn much hotter and much longer, assuming that there was material from the plane that would

burn as well. The assumption regarding a 12 or 15 minute burn or a limited temperature burn from this type of activity are not realistic.

Second, the fire would not go out on its own but would do so only when properly suppressed (i.e. through firefighting equipment). Third, the fire would not be contained in the ISFSI but would spread out over the debris field created by the aircraft. Indeed, part of this debris field may contain casks that are displaced by the incoming, or as the Draft EA states "bounding 757-L", aircraft.

An effective mitigation method to this scenario is to invoke the emergency response plan in place with the City. This emergency response would include, but not be limited to, fire and ambulance to suppress fire and minimize any impact or, if there has been an impact or release, to contain the same. The ambulance can address any injury suffered by any ISFSI personnel or any other parties that may have been injured by the inbound 757-L.

An emergency response is crucial to contain and mitigate this or any other incident at the ISFSI. This fact is recognized by the Commission in its requirements to obtain a license to operate an independent spent fuel storage system with or without plant operation. It was recognized by the Company in its Application for Additional Dry Cask Storage to the Minnesota Public Utilities Commission (the "Application"), and by the Environmental Impact Statement (the "State EIS") completed by the Minnesota Department of Commerce in connection with the Company's Application. In fact, the State EIS specifically referenced an effective emergency response plan and concluded that without one, or an effective response to an incident (radiological or non-radiological) could result in that incident spiraling out of control. State EIS, Chapter 2, pgs. 22, 27, 33-35. This will have a negative impact on the human and natural environment. *Id.* The Draft EA, to be effective, needs to be modified to likewise evaluate the need for an emergency response plan, an effective response to an incident and the impact if an effective response is not provided.

The socioeconomic environmental impacts of a lack of response, and the cause associated with the same, are simply too significant for the Draft EA to ignore.

The inclusion of an analysis of an emergency response plan or emergency preparedness is also, as briefly mentioned before, part of a fabric of oversight by the Federal and State Governments of the PINGP. Specifically, each of them require, whether as part of general operations of the PINGP or, when those operations cease, as part of the licensing of the

ISFSI, verification, through reasonable assurances from the City, that an emergency response plan or emergency preparedness is adequately in place. With this requirement, it makes sense that the EA also include an analysis in order to appropriately weigh the impact of continued storage on the natural and human environments that surround the ISFSI.

CONCLUSION

As set forth above, the Draft EA must be completed and modified. Unless this occurs, the Draft EA fails its essential purpose.

If there are any questions or if additional information needs to be provided, please do not hesitate to contact me or anyone at the City.

Very truly yours,

MADIGAN, DAHL & HARLAN

A handwritten signature in black ink, appearing to read "Thomas P. Harlan", with a stylized flourish at the end.

Thomas P. Harlan

TPH/kk

Enclosures

cc: The City of Red Wing, Minnesota (via e-mail)