



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION III
2443 WARRENVILLE RD. SUITE 210
LISLE, IL 60532-4352

June 22, 2015

EA-15-026

Ms. Barbara A. Nick
President and CEO
Dairyland Power Cooperative
3200 East Avenue S.
P.O. Box 817
La Crosse, WI 54602-0817

**SUBJECT: NOTICE OF VIOLATION – LA CROSSE BOILING WATER REACTOR
INDEPENDENT SPENT FUEL STORAGE INSTALLATION – NRC INSPECTION
REPORT NOS. 07200046/2014001(DNMS) AND 05000409/2014008(DNMS)**

Dear Ms. Nick:

This letter refers to the inspection conducted on December 15 through 18, 2014, at Dairyland Power Cooperative's La Crosse Boiling Water Reactor independent spent fuel storage installation near Genoa, Wisconsin, with continued in office review through February 24, 2015. During the inspection three apparent emergency preparedness violations of U.S. Nuclear Regulatory Commission (NRC) requirements were identified. The significance of the issues and the need for lasting and effective corrective actions were discussed with you during the preliminary exit meeting on December 18, 2014, and during a telephone exit meeting with members of your staff on February 24, 2015. Details regarding the apparent violations were provided in NRC Inspection Report Nos. 07200046/2014001(DNMS) and 05000409/2014008(DNMS), dated March 26, 2015. The inspection report can be found in the NRC's Agencywide Documents Access and Management System (ADAMS) at Accession Number ML15085A562. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violations identified in the report in one of three ways: (1) by providing a written response; (2) by requesting a predecisional enforcement conference; or (3) by attending an alternative dispute resolution (ADR) session. In a letter dated April 21, 2015 (ML15128A267), you provided a written response to the apparent violations. Your response stated, in part, that while you did not contest the apparent violations, you believed they more clearly represented Severity Level IV non-cited violations (NCVs).

Based on the information developed during the inspection and the information that you provided in your response to the inspection report, the NRC has determined that two violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the subject inspection report. The first violation involves the failure to submit a license amendment to the NRC for changes in your Emergency Plan that reduced its effectiveness prior to implementing those changes. The

second violation involves the failure to follow your approved Emergency Plan for operations personnel staffing, and conducting emergency drills and exercises in accordance with the frequency specified in the plan.

Your staff's decision to eliminate operations personnel staffing during nights and weekends, and reducing the frequency of drills impacted your ability to assess emergency conditions, which potentially could have led to a failure to declare and appropriately respond to emergencies. Additionally, your staff's actions in determining that changes to the Emergency Plan did not require prior NRC approval resulted in changes being made that were not in accordance with NRC requirements and reduced the effectiveness of the emergency plan. The root cause of both these violations appeared to be ineffective management of Emergency Plan changes; therefore, these violations are categorized collectively, in accordance with the NRC Enforcement Policy, as a Severity Level III problem.

In your response letter, dated April 21, 2015, you requested that the severity level of the violations be categorized at Severity Level IV. Your response stated the apparent Severity Level III violations were similar to other non-cited Severity Level IV violations recently issued to shut down plants where changes were made to their emergency plans that reduced the effectiveness without prior NRC review. The NRC reviewed your response and the recently issued NCVs and noted that the changes to emergency plans for the recently issued NCVs involved staffing reductions of emergency plan support personnel which were not related to assessing, declaring or mitigating emergency conditions. The NRC concluded that the staffing changes to your plan included the removal of the Operations Shift Supervisor during night shifts and weekends. In an emergency event, the Operations Shift Supervisor was the Emergency Response Director, was trained and qualified to perform radiological assessments, and was responsible for declaring and mitigating emergency conditions. Therefore, the NRC determined that the change to your emergency plan most closely resembled the Severity Level III Enforcement Policy example which describes the case where a licensee's ability to meet or implement any regulatory requirements related to assessment or notification is degraded such that the effectiveness of the emergency plan is decreased.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$17,500 is considered for a Severity Level III problem. Because your facility has not been the subject of escalated enforcement actions within the last two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. The NRC determined credit was warranted for *Corrective Action* based on your corrective actions which included: requiring all decommissioning and dismantlement work be conducted only during times when adequate staffing was available to address any potential contamination release, and submitting changes to the Emergency Plan for NRC review, which were subsequently approved.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding: (1) the reason for the violation(s); (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in your letter, dated April 21, 2015. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if you provide one, will be made available electronically for public inspection in the NRC Public Document Room and in ADAMS. To the extent possible, any response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). The NRC also includes significant enforcement actions on its Web site at http://www.nrc.gov/reading_rm/doc_collections/enforcement/actions.

Sincerely,

/RA Darrell Roberts Acting for/

Cynthia D. Pederson
Regional Administrator

Docket Nos. 050-00409; 072-00046
License No. DPR-45; General Licensee (ISFSI)

Enclosure:
Notice of Violation

NOTICE OF VIOLATION

Dairyland Power Cooperative
La Crosse, Wisconsin

Docket Nos. 050-00409; 072-00046
License No. DPR-45; General Licensee (ISFSI)
EA-15-026

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted between December 15, 2014 and February 24, 2015, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. Title 10 of the *Code of Federal Regulations* (10 CFR) 50.54(q) (4) requires, in part, that changes to a licensee's emergency plan that reduce the effectiveness of the plan may not be implemented without prior approval by the NRC. It further requires that a licensee desiring to make such a change after February 21, 2012, shall submit an application for an amendment to its license.

Contrary to the above, on October 29, 2012, the licensee failed to receive NRC approval prior to implementing a change to its emergency plan that reduced its effectiveness. Specifically, the licensee did not submit a license amendment application for the changes to their Emergency Plan that included removing twelve plant related events, eliminating the "Alert" classification, reducing the frequency of emergency exercises from annual to biennial, and eliminating one hour staff augmentation requirements, which the NRC determined to have reduced the effectiveness of the plan.

- B. 10 CFR 50.54(q)(2) requires, in part, that a licensee follow and maintain the effectiveness of an emergency plan that meets the requirements in 10 CFR Part 50, Appendix E, and, for nuclear power reactor licensees, the planning standards of 10 CFR 50.47(b).

La Crosse Boiling Water Reactor Emergency Plan, Revision 31, dated May 2011, Section A.1.1 "Plant Emergency Response Organization," in part, assigned the authority and responsibility for Emergency Plan activation to the Operations Shift Supervisor, and specified that on-shift personnel would assume positions in the Plant Emergency Response Organization and be augmented by additional members of the plant staff as they became available.

Section E.2.2.1, "Plant Emergency Plan Exercises," required plant exercises to be conducted annually to evaluate the overall response and emergency capability. Section E.2.3 "Drills," required performing the following types of drills at the specified frequency: fire drills were to be conducted annually, medical emergency drills were to be conducted annually, and health physics drills were to be conducted annually."

Contrary to the above, the licensee failed to follow and maintain the effectiveness of its Emergency Plan. Specifically:

1. From September 20, 2012, to October 26, 2012, and from October 30, 2012, to September 8, 2014, the licensee failed to follow their approved Emergency Plan for plant normal work staff and normal night shift staffing. The licensee eliminated the Operations Shift Supervisor and Operator staffing on weekends and the normal night shift. The Operations Shift Supervisor was the Emergency Response Director trained

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and qualified to perform radiological assessments and responsible for declaring and mitigating emergency conditions.

2. From June 20, 2011, through December 31, 2013, the licensee failed to follow their approved Emergency Plan for conducting exercises and drills. The licensee failed to perform an annual plant emergency exercise from 2011 through 2013, and failed to perform both plant and ISFSI annual drills from 2011 to 2013, including fire drills in 2011 and 2012, a medical drill in 2013, and a health physics drill in 2012.

This a Severity Level III problem (Section 6.6)

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in a letter from the licensee, dated April 21, 2015. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description herein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-15-026," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region III, within 30 days of the date of the letter transmitting this Notice of Violation.

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

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

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

Dated this 22nd day of June, 2015

The NRC has concluded that information regarding: (1) the reason for the violation(s); (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in your letter, dated April 21, 2015. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if you provide one, will be made available electronically for public inspection in the NRC Public Document Room and in ADAMS. To the extent possible, any response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). The NRC also includes significant enforcement actions on its Web site at http://www.nrc.gov/reading_rm/doc_collections/enforcement/actions.

Sincerely,

/RA Darrell Roberts Acting for/

Cynthia D. Pederson
Regional Administrator

Docket Nos. 050-00409; 072-00046
License No. DPR-45; General Licensee (ISFSI)

Enclosure:
Notice of Violation

ADAMS Accession No. ML15174A165

OFFICE	RIII	RIII	RIII	OE	RIII	RIII
NAME	Lambert	Orlikowski	Louden	Hilton ¹	Heller for Skokowski	Roberts for Pederson
DATE	06/02/15	06/03/15	06/04/15	06/16/15	06/18/15	06/22/15

OFFICIAL RECORD COPY

¹ OE concurrence provided via email from C. Faria-Ocasio dated June 16, 2015

Letter to Barbara A. Nick from Cynthia D. Pederson dated June 22, 2015

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INDEPENDENT SPENT FUEL STORAGE INSTALLATION – NRC INSPECTION
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