



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
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November 20, 1996

EA 96-307

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

SUBJECT: NOTICE OF VIOLATION
(NRC Inspection Report Nos. 50-298/96-18 and 96-02)

Dear Mr. Horn:

This refers to your letter dated October 25, 1996, in which you replied to our letter and NRC Inspection Report 50-298/96-18 dated September 18, 1996. The inspection report described eight apparent violations of access authorization requirements at Cooper Nuclear Station (Cooper), most of which had been identified by NPPD following a change in management of the security program in late 1995. Our letter indicated that the NRC was considering escalated enforcement action and provided the Nebraska Public Power District (NPPD) with the option of responding in writing or requesting a predecisional enforcement conference. NPPD provided a written response to the apparent violations in its letter dated October 25, 1996.

In its response, NPPD admitted the apparent violations, but stated that some appeared to be deviations from regulatory guidance contained in NRC Regulatory Guide 5.66 rather than violations of requirements. NPPD also noted that all but two of the violations were self-identified, and that NPPD was in compliance with the involved requirements at the time the inspection (96-18) was conducted. NPPD described numerous corrective actions, including: consolidation of the security program under the Nuclear Power Group to increase oversight and control; revisions to Cooper's security procedures to remedy the cited deficiencies; retraining of the access authorization staff; and a review of active access files to assure that unescorted access was based on appropriate information and that required information was in each file. Finally, NPPD acknowledged that a deficient access authorization program existed, but noted that aggressive steps were taken to assess and correct all deficiencies. As noted in NRC's inspection report, there was a complete turnover in the access authorization staff since the discovery of these violations in late 1995.

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 violations of NRC requirements did occur. These violations are cited in the enclosed Notice of Violation (Notice). The circumstances surrounding them were described in detail in the subject inspection report. With regard to NPPD's position that some of the apparent violations appeared to be deviations from regulatory guidance, and not violations, the NRC

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notes that NRC Regulatory Guides are enforceable if they are referenced or contained in a license or other legally binding requirement. In this case, NRC License DPR-46 states that NPPD will fully implement all provisions of the NRC-approved Security Plan for the Cooper Nuclear Station. The Security Plan commits NPPD to implementing all elements of Regulatory Guide 5.66. Thus, the guidance contained in Regulatory Guide 5.66 is considered by the NRC to be legally binding on NPPD and deviations from Regulatory Guide 5.66 are considered violations of requirements.

The enclosed violations involved several past failures to implement requirements related to granting access to Cooper, including: 1) multiple failures to consider criminal history information; 2) multiple failures to develop references for applicants, including a willful failure on the part of a former Cooper access authorization technician to develop references in two cases; 3) multiple failures to review military background information; 4) multiple failures to document interviews of applicants when derogatory information was discovered; 5) multiple failures to verify activities during periods of unemployment; 6) multiple failures to conduct complete background investigations when "updating" access; 7) two failures to complete full background investigations after granting temporary access. In addition to these past failures, one current violation was discovered, involving a vulnerability in the badging process for individual access authorization.

The NRC acknowledges that most of the violations were discovered in late 1995 and early 1996 following a change in management of the security program at Cooper, and were corrected by NPPD prior to the NRC's inspection (96-18). Nonetheless, these violations indicate that for an extended period of time prior to late 1995, Cooper's access authorization program was barely functional in several areas. This appears to have been caused by inadequate or non-existent management of this program. While the NRC does not have information indicating that the violations resulted in granting unescorted access to individuals who should not have been permitted access to Cooper, the program was being run in a manner that significantly increased the likelihood of that occurring. The manner in which the access authorization program was being run was contrary to the objective in 10 CFR 73.56 of providing high assurance that unescorted access be granted only to individuals who are reliable and trustworthy. Therefore, these violations are classified in the aggregate in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, as a Severity Level III problem.

In accordance with the Enforcement Policy, a civil penalty with a base value of \$50,000 is considered for a Severity Level III problem. Because your facility has been the subject of escalated enforcement actions within the 2 years preceding the discovery of this problem in late 1995 and early 1996¹, the NRC considered whether credit was warranted for Identification and Corrective Action in accordance with the civil penalty assessment process in Section VI.B.2 of the Enforcement Policy. The NRC determined that credit was warranted for both: Cooper security management identified most of the violations and, as

¹ For example, on December 12, 1994, a Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$300,000 was issued for three Severity Level III problems involving primary containment integrity, electrical buses, and the control room emergency filtration system (EAs 94-164, 94-165, 94-166).

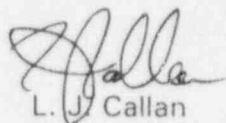
discussed above, initiated prompt and comprehensive corrective action. While Section VII.A.1 of the NRC's Enforcement Policy states that the NRC may increase sanctions for violations involving particularly poor licensee performance, regardless of the Identification and Corrective Action factors, the NRC has decided not to assess a civil penalty based on the specific circumstances of this case. As NPPD stated in its October 25 letter, these problems were identified as the result of "positive action to aggressively self-identify, correct and improve" the access authorization program.

Therefore, to recognize and encourage self-identification and prompt and comprehensive correction of violations, I have been authorized after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation without a civil penalty in this case. However, NPPD is reminded and cautioned that significant violations in this program area in the future could result in a civil penalty.

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 Inspection Report No. 50-298/96-18, and NPPD's October 25, 1996 letter. 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 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and any response you choose to submit will be placed in the NRC Public Document Room (PDR).

Sincerely,



L. J. Callan
Regional Administrator

Enclosure: Notice of Violation

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

cc w/Enclosure:

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