

## V. Administration of the MOU

A. While retaining ultimate responsibility for making determinations and exercising their individual responsibilities in accordance with existing statutory responsibilities, the NRC and the Corps will consult with one another to resolve disputes using existing dispute resolution methods and in accordance with this agreement. If no agreement can be reached, either agency may refer the matter to the Council on Environmental Quality in accordance with 40 CFR 1504, "Predecision Referrals to the Council of Proposed Federal Actions Determined To Be Environmentally Unsatisfactory." Notwithstanding any such referral, the NRC reserves the right to make a final decision on any matter within the NRC's regulatory authority.

B. This MOU may be modified, amended, or terminated upon written request of any party hereto and the subsequent written concurrence of all other participating agencies. Participation in this agreement may be terminated 60 days after providing written notice of such termination to other participating agencies.

C. Acknowledgement that the authority and responsibilities of the parties under their respective jurisdictions are not altered by the MOU.

1. This MOU is intended only to improve the working relationships of the participating agencies in connection with expeditious decisions with regard to nuclear power plant authorizations and is not intended to, nor does it create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by any person or party against the United States, its agencies, its officers, or any other person.

2. This MOU is to be construed in a manner consistent with all effective existing laws and regulations.

3. The MOU neither expands nor is in derogation of those powers and authorities vested in the participating agencies by applicable laws, statutes, or regulations.

4. The terms of this MOU are not intended to be enforceable by any party other than the signatories hereto.

5. The participating agencies intend to fully carry out the terms of this MOU. All provisions in this MOU, however, are subject to available resources. In addition, this MOU does not limit the ability of any of the participating agencies to review and respond to final applications.

6. If an applicant, prospective applicant, or other person requests a correction of information disseminated pursuant to this MOU, as authorized by Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106-554), the process by which such request will be addressed will be that established by the agency that disseminated the information.

7. This MOU cannot be used to obligate or commit funds or as the basis for the transfer of funds.

issued for a nuclear power plant. The hearing will be conducted by the Commission or by a presiding officer designated by the Commission pursuant to 10 CFR 2.313, "Designation of Presiding Officer, Disqualification, Unavailability, and Substitution."

8. Nothing in this MOU, in and of itself, requires any signatory agency to enter into any contract, grant, or interagency agreement.

9. All provisions in this MOU are subject to the availability of funds.

Accordingly, the parties have signed this MOU on the dates set forth below, to be effective for all purposes as of the date last signed. The signatures may be executed using counterpart original documents.

September 12, 2008.

John Paul Woodley, Jr.,  
Assistant Secretary of the Army (Civil Works).

September 12, 2008.

R. W. Borchardt,  
Executive Director for Operations, U.S.  
Nuclear Regulatory Commission.

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-263]

### In the Matter of: Nuclear Management Company, LLC; Northern States Power Company; (Monticello Nuclear Generating Plant); Renewed Facility Operating License No. DPR-22; Order Approving Transfer of License and Conforming Amendment

#### I.

Northern States Power Company, a Minnesota corporation (NSPM) and Nuclear Management Company, LLC (NMC) are holders of Renewed Facility Operating License No. DPR-22, which authorizes the possession, use, and operation of Monticello Nuclear Generating Plant (Monticello). NSPM is authorized to possess, and NMC is authorized to use and operate Monticello. The facility is located at the licensees' site in Wright County, Minnesota.

#### II.

By letter dated April 16, 2008, as supplemented by letter dated August 6, 2008, NSPM and NMC requested approval for NSPM to acquire from NMC the operating authority of the facility following approval of the proposed license transfer. Subsequently, NSPM will be responsible for the operation and maintenance of MNGP. NMC will be integrated into the current NSPM organization, which would be the sole entity holding both the ownership and operating authority of MNGP.

The applicants also requested approval of a conforming license amendment that would replace references to NMC in the license with references to NSPM to reflect the transfer of operating authority under the

applicable conditions and authorizations included in the Monticello license. The applicants proposed no physical changes to the facility or operational changes. After completion of the proposed transfer, NSPM would become the operator, as well as continue to be the owner of the facility.

Approval of the transfer of the licensed operating authority and conforming license amendment is requested by the applicants pursuant to Sections 50.80 and 50.90 of Title 10 of the *Code of Federal Regulations* (10 CFR). Notice of the request for approval and opportunity for a hearing were published in the **Federal Register** on June 5, 2008 (73 FR 32057). No comments and no petitions to intervene were received.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application and other information before the Commission, and relying upon the representations and agreements contained in the application, the Nuclear Regulatory Commission (NRC) staff has determined that NSPM is qualified to continue to hold the ownership interests in the facility, and is qualified to acquire and hold the operating authority previously held by NMC, and that the transfer of the operating interests in the facility to NSPM described in the application is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendment will be in accordance with 10 CFR Part 51 of the

Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by the NRC staff's safety evaluation dated the same day as this Order.

### III.

Accordingly, pursuant to sections 161b, 161i, and 184 of the Act, 42 U.S.C. sections 2201(b), 2201(i), and 2234; and 10 CFR 50.80, it is hereby ordered that the transfer of the operating authority of the license, as described herein, from NMC to NSPM is approved.

It is further ordered that, consistent with 10 CFR 2.1315(b), the license amendment that makes changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the license to reflect the subject direct license transfer is approved. The amendment shall be issued and made effective at the time the proposed direct license transfer is completed.

It is further ordered, that NMC and NSPM shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of the date of closing of the transfer of NMC's operating interests in Monticello at least 1 business day prior to closing. Should the transfer of the license not be completed within one year of this Order's date of issuance, this Order shall become null and void, provided, however, that upon written application and for good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated April 16, 2008, the supplement dated August 6, 2008, and the safety evaluation dated the same day as this Order, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Room O-1 F21 (First Floor), Rockville, Maryland and accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail at [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland this 15th day of September, 2008.

For the Nuclear Regulatory Commission.

**Eric J. Leeds,**

*Director, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-282, 50-306, 72-10]

### In the Matter of: Nuclear Management Company, LLC; License Nos DPR-42, DPR-60, SNM-2506; Northern States Power Company; (Prairie Island Nuclear Generating Plant, Units 1 and 2) Order Approving Transfer of License and Conforming Amendment

#### I.

Northern States Power Company, a Minnesota corporation (NSPM) and Nuclear Management Company, LLC (NMC) are holders of Facility Operating License No. DPR-42 and DPR-60, which authorize the possession, use, and operation of Prairie Island Nuclear Generating Plant (Prairie Island), Units 1 and 2, and Materials License SNM-2506, which authorizes the possession, use, and operation of the Prairie Island Independent Spent Fuel Storage Installation (ISFSI). NSPM is authorized to possess, and NMC is authorized to use and operate Prairie Island and the Prairie Island ISFSI. The facilities are located at the licensees' site in Goodhue County, Minnesota.

#### II.

By letter dated April 16, 2008, as supplemented by letter dated August 6, 2008, NSPM and NMC requested approval for NSPM to acquire the operating authority of the facilities from NMC following approval of the proposed license transfer. Subsequently, NSPM will be responsible for the operation and maintenance of Prairie Island and the Prairie Island ISFSI. NMC will be integrated into the current NSPM organization, which would be the sole entity holding both the ownership and operating authority of the facilities.

The applicants also requested approval of conforming license amendments that would replace references to NMC in the licenses with references to NSPM to reflect the transfer of operating authority under the applicable conditions and authorizations included in the Prairie Island licenses. The applicants proposed no physical changes to the facilities or operational changes. After completion of the proposed transfer, NSPM would become the operator, as

well as continue to be the owner of the facilities.

Approval of the transfer of the licensed operating authority and conforming license amendments are requested by the applicants pursuant to Sections 50.80 and 50.90 of Title 10 of the *Code of Federal Regulations* (10 CFR). Notice of the request for approval and opportunity for a hearing were published in the **Federal Register** on June 5, 2008 (73 FR 32055). No comments and no petitions to intervene were received.

Pursuant to 10 CFR 50.80 and 10 CFR 72.50, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that NSPM is qualified to continue to hold the ownership interests in the facilities, and is qualified to acquire and hold the operating authority previously held by NMC, and that the transfer of the operating interests in the facilities to NSPM described in the application is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the applications for the proposed license amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facilities will operate in conformity with the applications, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by NRC staff's safety evaluation dated the same day as this Order.