subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Bryan A. Snapp, Esquire, Assoc. General Counsel, PP&L, Inc., 2 North Ninth St., GENTW3, Allentown, PA 18101–1179, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 10, 2000, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 14th day of April 2000.

For the Nuclear Regulatory Commission.

Robert G. Schaaf,

Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–9963 Filed 4–20–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–20563, License No. 52–21368–01, EA 99–262]

In the Matter of Western Soil, Inc., Mayaguez, Puerto Rico 00681; Order Imposing Civil Monetary Penalty

I

Western Soil, Inc. (Licensee) is the current holder of Materials License No. 52–21368–01 originally issued by the Nuclear Regulatory Commission (NRC or Commission) on December 13, 1983, to Caribbean Soil Testing Company, Inc. On April 12, 1994, an amendment was issued transferring the license to Western Soil, Inc. The license expires on April 30, 2004. The license authorizes Western Soil, Inc. to use sealed sources contained in portable gauging devices for measuring properties of materials.

II

An inspection of the Licensee's activities was conducted on September 28–29, 1999. The results of this inspection indicated that the Licensee had not conducted its activities in compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated November 24, 1999. The Notice states the nature of the violations, the provisions of the NRC's requirements that the Licensee violated, and the amount of the civil penalty proposed for the violation cited in Part I of the Notice.

The Licensee responded to the Notice by letters dated December 20, 1999, and February 16, 2000. In its responses, the Licensee admits the violations in Part II of the Notice, but contests the violation in Part I of the Notice insofar as it stated that the licensee failed to maintain constant surveillance of licensed material. The Licensee also took issue with certain statements made in the cover letter forwarding the Notice. In addition, the Licensee requested that NRC consider categorizing the violation in Part I of the Notice as a first offense, rather than as a recurring one.

III

After consideration of the Licensee's responses and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the violation cited in Part I of the Notice occurred as stated and that the penalty proposed for the violation designated in Part I of the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *It Is Hereby Ordered That:*

The Licensee pay a civil penalty in the amount of $2,750 within 30 days of the date of this Order, in accordance with NUREG/BR–0254. In addition, at the time of making payment, the Licensee shall submit a statement indicating when and by what method payment was made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a ''Request for an Enforcement Hearing'' and shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Regional Administrator, NRC Region II, U.S. Nuclear Regulatory Commission, 61 Forsyth St., SW, Suite 23T85, Atlanta, GA 30303.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) whether the Licensee was in violation of the Commission's requirements as set forth in Part I of the Notice referenced in Section II above, and

(b) whether, on the basis of such violation, this Order should be sustained.

Dated this 12th day of April 2000.

For the Nuclear Regulatory Commission.

R.W. Borchardt,

Director, Office of Enforcement.

Appendix—Evaluations and Conclusions

On November 24, 1999, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for violations identified during an NRC inspection. The licensee's response denies Violation I in part and provides additional information in support of mitigation of the violation, and admits Violation II.A and B. The NRC's evaluation and conclusion regarding the licensee's arguments are as follows:

Restatement of the Violation in Part I of the Notice

10 CFR 20.1801 requires the licensee to secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas. 10 CFR 20.1802 requires the licensee to control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage. As defined in 10 CFR 20.1003, controlled area means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee for any reason; unrestricted area means an area, access to which is neither limited nor controlled by the licensee.

Contrary to the above, on June 4, 1999, the licensee failed to secure from unauthorized removal or limit access to a moisture/density portable nuclear gauge containing approximately 10 millicuries of cesium-137 and 50 millicuries of americium-241 in a vehicle while at a temporary job site, which is an unrestricted area, nor did the licensee control and maintain constant surveillance of this licensed material. As a result, the gauge was stolen.

Summary of Licensee's Response to the Violation in Part I of the Notice

In response to the violation, the licensee stated that on June 4, 1999, the technician did not abandon or leave the gauge. The licensee further stated that after completing density tests, the technician secured the gauge to the bed of the pick up truck with only a stabilization belt. The licensee stated that the case was not secured to the vehicle with a chain and padlock because the technician was discussing work with the project manager at a distance of 300–400 feet from the gauge. The licensee admitted the technician's mistake, but indicated that it was not a typical situation during operations and that the gauge was not abandoned.

NRC Evaluation of Licensee's Response to the Violation in Part I of the Notice

Regarding the regulatory basis for the violation of 10 CFR 20.1801 and 20.1802, the technician's presence at a distance of 300–400 feet from the gauge was, in this case, unacceptable for maintaining adequate surveillance and control over unsecured licensed material because the gauge was stolen. This is a clear indication that it was not adequately surveilled or controlled.

Summary of Licensee's Request for Mitigation

The licensee took issue with the characterization of the violation as similar to a violation identified in March 1994 when the license was under the control of the previous owner, Caribbean Soil Testing Company, Inc. The licensee stated that in June 1997, Western Soil, Inc. assumed responsibility for the license and committed to the programs required by the NRC. The licensee noted inadequacies in Carribean Soil's procedures for handling gauges and implemented improvements, including use of a chain and padlock to secure gauges to vehicles. The licensee stated that it was unaware of the previous violation until NRC's letter of November 24, 1999, transmitting the Notice. Furthermore, the licensee asserts that the prior violation, as recalled by the former owner of the company, related to a case padlock, not to stolen equipment. Based on this, the licensee requested that the violation be considered a first time offense and not a recurring one.

The licensee also disagreed with the finding that the transportation case for the stolen gauge contained the gauge key, as stated in NRC's November 24, 1999, cover letter forwarding the Notice. The licensee stated that, during the inspection, the NRC inspector found keys inside an envelope in the transportation case which belonged to a gauge in storage. The licensee further explained that keys are normally stored in the transportation cases of ''out of service'' gauges to ensure that the keys travel with the gauges when they are shipped for service, as opposed to gauges being used in the field, which did not have keys with them. The licensee stated that on the day of the NRC inspection, the transportation case of the gauge returning from the field did not contain its key.

NRC Evaluation of Licensee's Request for Mitigation

In accordance with Section VI.B.2. of the Enforcement Policy, when activities under the license have been the subject of *any* escalated enforcement action within the last two inspections, the NRC considers whether credit is warranted for identification or corrective action in assessing the amount of the civil penalty. In this case, because the activities under the license had been the subject of escalated enforcement action within the last two inspections, the NRC applied these factors in assessing the amount of the civil penalty.

Although the licensee stated that it was unaware of the previous violation until NRC's letter of November 24, 1999, transmitting the Notice, as part of the application, the licensee submitted a letter dated August 19, 1997, which stated that the new owner agreed with all constraints, conditions requirements, representations and commitments identified in the existing

license. This letter is referenced in License Condition 21 of the NRC license which requires, in part, that the licensee maintain the corrective actions for previous enforcement actions. Corrective actions from the previous enforcement action issued on June 14, 1994, regarding security of material, were documented in a letter dated August 29, 1994, from Caribbean Soil Testing Company, Inc. which stated, ''we have attached a chain to the handle of the gauge box and lock it with the open bed of the pick up truck.'' The NRC therefore holds the new owner responsible for the previous escalated enforcement actions and associated corrective action effectiveness. In this case, as explained in the cover letter forwarding the Notice, the licensee did not maintain effective corrective action such as would have prevented this violation from occurring.

In addition, the licensee stated that the previous violation of June 14, 1994, was not associated with a stolen gauge but rather, was associated with a case padlock. The current violation need not be a duplicate of the previous enforcement action, but these two actions are similar in that both of these violations involve the licensee's failure to control licensed material. The fact that the prior violation was not *identical* to this violation had no bearing upon the amount of the civil penalty that was assessed.

Regarding the location of the gauge keys, the inspector observed a gauge in storage with the gauge key in an envelope inside the transportation case, and questioned the licensee about the stolen gauge. The licensee's Radiation Safety Officer (RSO) stated to the inspector that the stolen gauge's transportation case also contained its key in an envelope, and that the practice of transporting gauges with their keys was not uncommon. The RSO told the inspector that the stolen gauge was found with a broken transport case lock; however, the envelope which contained the key inside the transportation case appeared to be untampered with. This finding was documented in the October 19, 1999, inspection report and was neither challenged nor questioned by Western Soil, Inc. during the November 9, 1999, predecisional enforcement conference. In its letters dated December 20, 1999, and February 16, 2000, Western Soil, Inc. provided information contrary to this finding. However, the reconciliation of this conflicting information regarding the location of the keys has no effect on the outcome of the final enforcement action including the potential civil penalty. Although the location of the keys does affect the magnitude of the safety significance; the severity level of the violation and associated civil penalty were based solely on the licensee's failure to maintain adequate security over licensed material which resulted in the gauge being stolen and in the public domain. Such a violation is categorized at Severity Level III in accordance with Supplements IV.C.9 and VI.C.I of the Enforcement Policy.

NRC Conclusion

For the above reasons, the NRC staff concludes that the violation occurred as stated and that mitigation of the civil penalty is not warranted.

[FR Doc. 00–9967 Filed 4–20–00; 8:45 am]
BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–373 and 50–374]

Commonwealth Edison Company, LaSalle County Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of amendments to Facility Operating Licenses Nos. NPF–11 and NPF–18, issued to Commonwealth Edison Company (ComEd, the licensee) for operation of LaSalle County Station, Units 1 and 2, located in LaSalle County, Illinois.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow ComEd to increase the maximum reactor core power level for facility operation from 3323 megawatts-thermal (MWt) to 3489 MWt, which is a five percent increase in rated core power.

The proposed action is in accordance with ComEd's application for amendments dated July 14, 1999, as supplemented by letters dated January 21, February 15, February 23, March 10, March 24, March 31, and April 7, 2000.

Need for the Proposed Action

The proposed action is needed to allow ComEd to increase the electrical output of each LaSalle unit and, thus, provide additional electrical power to service domestic and commercial areas of the licensee's grid. Power uprate has been widely recognized by the industry as a safe and cost-effective method to increase generating capacity. The proposed uprate will provide the licensee with additional operational flexibility.

Environmental Impacts of the Proposed Action

ComEd has submitted an environmental evaluation supporting the proposed extended power uprate action and provided a summary of its conclusions concerning both the radiological and non-radiological environmental impacts of the proposed action. Based on its independent analyses and the evaluation performed by the licensee, the staff concludes that the proposed increase in power is not expected to result in a significant environmental impact.

Radiological Environmental Assessment

Radwaste Systems

ComEd concluded that the operation of the radwaste systems that process radioactive effluents at LaSalle would not be impacted by operation at uprated power conditions and the slight increase in effluents discharged would continue to meet the requirements of 10 CFR part 20, ''Standards for Protection Against Radiation,'' and 10 CFR part 50, appendix I, ''Numerical Guides for Design Objectives and Limiting Conditions for Operation to Meet the Criterion 'As Low as is Reasonably Achievable' for Radioactive Material in Light-Water-Cooled Nuclear Power Reactor Effluents.'' Therefore, power uprate does not have an adverse effect on the processing of radioactive effluents and there are no significant environmental effects from radiological releases.

Dose Consideration

ComEd evaluated the effects of power uprate on the radiation sources within the plant and the radiation levels during normal and post-accident conditions. For normal operations, the licensee determined that conservatism in the analyses and the margins added to calculated doses and specific shield thickness are sufficient to accommodate any increases attributed to the five percent increase in rated thermal power. For post-accident conditions, the resulting radiation levels were determined to be within current regulatory limits. In addition, the licensee determined that there would be no effect on the plant or habitability or the control room envelope or the Technical Support Center. The licensee evaluated the whole body and thyroid doses at the exclusion area boundary that might result from the postulated design basis loss-of-coolant accident and determined the doses remain below established regulatory limits.

Summary

The proposed power uprate will not significantly increase the probability or consequences of accidents, will not involve any new radiological release pathways, will not result in a significant increase in occupational or public radiation exposure, and will not result in significant additional fuel cycle environmental impacts. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.