



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, DC 20555 - 0001

January 27, 2005

EA-04-123

Mr. J. Morris Brown
Vice President - Operations
United States Enrichment Corporation
Two Democracy Center
6903 Rockledge Drive
Bethesda, MD 20817

SUBJECT: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY)

Dear Mr. Brown:

The enclosed Confirmatory Order is being issued to the United States Enrichment Corporation (USEC), the certificate holder, to confirm certain commitments, as set forth in Section V of the Order, and to ensure that training related to employee protection at USEC's Paducah Gaseous Diffusion Plant (PGDP) will be adequately addressed. The Confirmatory Order was discussed with you and your staff during an Alternative Dispute Resolution (ADR) session held at USEC's offices in Bethesda, Maryland, on November 22, 2004, to resolve NRC's concern, discussed in our letter to USEC dated September 29, 2004. The Confirmatory Order was agreed to by USEC and NRC prior to a predecisional enforcement conference regarding whether a violation of 10 CFR 76.7 occurred at the PGDP. Furthermore, USEC's agreement to the issuance of the Confirmatory Order and the specific terms therein does not constitute an admission by USEC that it violated NRC's employee protection regulations. In view of the Confirmatory Order, consent by USEC thereto as evidenced by your signed "Consent and Hearing Waiver Form" (copy enclosed) dated January 24, 2005, and subject to the satisfactory completion of the conditions of the Confirmatory Order by USEC, the NRC will not pursue further enforcement action on the subject of this investigation. We will, however, evaluate the implementation of your training commitments related to employee protection during future inspections.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Order shall be subject to criminal prosecution as set forth in that section. Violation of this Order may also subject the person to civil monetary penalties.

Questions concerning this Confirmatory Order should be addressed to Doug Starkey, NRC Office of Enforcement, who can be reached at 301-415-3456 or via e-mail at DRS@nrc.gov.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov; select **What We Do, Enforcement**, then

Significant Enforcement Actions. To the extent possible, your response to this Confirmatory Order should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Sincerely,

/RA/

Frank J. Congel, Director
Office of Enforcement

Docket No. 070-07001
Certificate No. GDP-1

Enclosures:

1. Copy of Consent and Hearing Waiver Form dated January 24, 2005
2. Confirmatory Order

cc w/enclosures:

R. B. Starkey, Paducah General Manager
S. R. Cowne, Paducah Regulatory Affairs Manager
S. A. Toelle, Director, Nuclear Regulatory Affairs, USEC
R. M. DeVault, Regulatory Oversight Manager, DOE
G. A. Bazzell, Paducah Facility Representative, DOE
Janice H. Jasper, State Liaison Officer

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DATE	01/25/2005	01/25/2005	01/25/2005	01/27/2005

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
United States Enrichment Corporation)	Docket No. 070-07001
Paducah Gaseous Diffusion Plant)	Certificate No. GDP-1
Paducah, Kentucky)	EA-04-123

CONFIRMATORY ORDER MODIFYING LICENSE
(EFFECTIVE IMMEDIATELY)

I

The United States Enrichment Corporation (USEC or Corporation) is the holder of NRC Certificate of Compliance No. GDP-1 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 76. The certificate authorizes USEC to receive, and licensees shall be authorized to transfer to the Corporation, byproduct material, source material, or special nuclear material to the extent permitted under the Certificate of Compliance. The certificate was issued November 26, 1996, was most recently amended on June 30, 2004, and is due to expire on December 31, 2008.

II

On December 16, 2002, the NRC's Office of Investigations (OI) started an investigation to determine whether a Quality Control (QC) Manager at USEC's Paducah Gaseous Diffusion Plant (PGDP) was discriminated against by being suspended and later terminated for raising safety concerns. On May 12, 2003, OI expanded its investigation to determine whether the same QC Manager was discriminated against, in retaliation for the previously raised safety concerns, by not being considered for a position with a contractor performing work for USEC at PGDP. OI, in OI report No. 3-2002-040, did not substantiate that the QC Manager was suspended or terminated because of raising safety concerns. However, based on the facts and

circumstances described in OI Report Number 3-2002-040, the NRC was concerned that the former QC Manager may have been discriminated against by not being considered for a contract position. By letter dated September 29, 2004, the NRC identified to USEC the NRC's concern. The September 29th letter offered USEC the opportunity either to attend a predecisional enforcement conference (PEC) or to request alternative dispute resolution (ADR) in which a neutral mediator with no decision-making authority would facilitate discussions between the NRC and USEC and, if possible, assist the NRC and USEC in reaching an agreement on resolving the concern. USEC chose to participate in ADR. On November 22, 2004, the NRC and USEC met at USEC headquarters in Bethesda, Maryland in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution.

III

By letter dated December 6, 2004, USEC enumerated the actions it has already taken and additional actions it agreed to take in order to enhance its Safety Conscious Work Environment at the PGDP. The agreed-upon additional actions noted in Section IV of this Confirmatory Order focus on Safety Conscious Work Environment training for managers of USEC contractors at the PGDP and USEC managers who are principal points of contact for USEC contractors at the PGDP.

On January 24, 2005, USEC consented to the NRC issuing this Confirmatory Order with the commitments, as described in Section IV below. USEC further agreed in its January 24, 2005, letter that this Confirmatory Order is to be effective upon issuance and that it has waived its right to a hearing. The NRC has concluded that its concerns can be resolved through effective implementation of USEC's commitments.

I find that USEC's commitments as set forth in Section IV are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that USEC's commitments be confirmed by this Order. Based on the above and USEC's consent, this Order is immediately effective upon issuance. USEC is required to provide the NRC with a letter summarizing its actions when all of the Section IV requirements have been completed.

IV

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, 186 and 1710 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 76, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT CERTIFICATE OF COMPLIANCE NO. GDP-1 IS MODIFIED AS FOLLOWS:

1. By no later than March 31, 2005, USEC shall develop and conduct initial Safety Conscious Work Environment training for: (a) managers of USEC contractors at the PGDP; and (b) USEC personnel who are principal points of contact for USEC contractors at the PGDP.
2. By no later than June 30, 2005, USEC shall develop Safety Conscious Work Environment refresher training for the managers of USEC contractors at the PGDP and revise its training program requirements to conduct on-going refresher training at a frequency consistent with USEC's General Employee Training at the PGDP.
3. By no later than June 30, 2005, USEC shall revise its training program requirements to conduct initial Safety Conscious Work Environment training for: (a) new managers of USEC contractors at the PGDP; and (b) USEC personnel who become principal points of contact for USEC contractors at the PGDP, within ninety day of their assumption of these duties.

The Director, Office of Enforcement, may relax or rescind, in writing, any of the above conditions upon a showing by USEC of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Certificate holder, may request a hearing within 20 days of its issuance. 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. Any request for a hearing 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, to the Regional Administrator, NRC Region II, 61 Forsyth Street, SW, Suite 23T85, Atlanta, Georgia, 30303-8931, and to the Certificate Holder. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR § 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to

be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Frank J. Congel, Director
Office of Enforcement

Dated this 27th day of January 2005