

CONFERENCE SUMMARY

NRC Enforcement Conference Report Nos. 03033097/2005001 & 03030462/2005001

On July 28, 2005, a Predecisional Enforcement Conference was held at the NRC Region I Office in King of Prussia, Pennsylvania, with representatives of ECS Mid-Atlantic, LLC (ECS). The Conference was held to discuss the violations identified during safety inspections of the licensee's branch offices in Richmond and Chantilly, Virginia, and the findings of an investigation conducted by the NRC Office of Investigations. The Conference was closed to members of the public and the proceedings were transcribed.

Brian Thomas made the opening remarks, and John Kinneman briefly explained the purpose of the meeting and stated that the Conference is an opportunity for the licensee to provide its perspective on the apparent violations described in the NRC inspection report and to describe corrective actions that have been implemented or are planned to address the violations. John Wray explained the NRC Enforcement Policy and Procedures and emphasized that the NRC had not yet decided on an enforcement action against the licensee and that the Conference was not a forum for negotiating the severity of the violations or enforcement action.

James Carpenter made opening remarks on behalf of the licensee and stated that the presence of senior managers of ECS at the Conference was indicative of management's concern about the inspection findings. He stated that the transfer of gauges to an unauthorized individual was not an intentional violation of NRC requirements, and that ECS had found the individual to be credible and believed that he was duly authorized to receive the gauges. He did not dispute the violation and acknowledged that ECS should have obtained the required documentation prior to transfer of the gauges. However, he expressed concern at its characterization by the NRC as wilful. To demonstrate that the violation was not wilful, he described the relationship between the transferee and ECS, sequence of events, exchange of electronic mail between ECS staff on the subject, and receipt of certification from CPN, the gauge vendor that stated that the transferee was authorized to service and calibrate the instruments. He stated that ECS was operating under the understanding that CPN had "embraced, endorsed" the transferee to perform services for ECS. He agreed that ECS should not have relied on the transferee's credibility alone and should have insisted to see the transferee's license before transferring the gauges. He also described the actions that have been implemented to prevent unauthorized transfer of gauges.

Stanley Murphy and Leo Titus then described the sequence of events prior to the inspection and provided copies of electronic mail that was exchanged between staff of ECS. Stanley Murphy stated that a completely revised radiation safety manual has been prepared and stated that all branches of ESC will be required to comply with the requirements of the manual and that the compliance by branches will be reviewed every 18 months by the management. This review will be in addition to the annual audit of the radiation safety program as required by NRC regulations.

Douglas Cole, the licensee's counsel, stated that it appears that the Commission is saying that ECS did this (transfer of gauges) with careless disregard, consciously or recklessly. He further

stated that ECS did take steps to verify if the transferee was authorized to receive the gauges, but admitted that it was not sufficient to rely on certification from CPN. Jenny Longo clarified how the NRC characterizes a violation as wilful, careless disregard of requirement, or reckless indifference.

Sattar Lodhi asked the licensee if they noted any errors in the inspection report. The licensee offered corrections related to the number of gauges and authorized users at the Richmond and Chantilly branches. John Wray then explained the enforcement options that are available to the NRC.

Brian Thomas thanked the licensee for their presentations, and adjourned the conference. The transcription of proceedings was also terminated.

The licensee was then requested to provide details of the two separate events that occurred recently, at two of its temporary job sites. The licensee described the two events in which a portable nuclear gauge was run over by heavy machinery. The licensee stated that in one event, the gauge user had left the gauge unattended, while in the other incident, the gauge user was standing by the gauge and tried unsuccessfully to alert the operator of the heavy machinery before it ran over the gauge.

John Kinneman thanked the licensee for their presentations and explained that the NRC will review these events during another inspection.

LIST OF PERSONS ATTENDING

Licensee

James R. Carpenter, P.E., Chief Engineer
Leo J. Titus, Jr., P.E., Vice President
Stanley J. Murphy, P. E., Corporate RSO
Douglas J. Cole, Counsel

NRC

Brian Thomas, Acting Director, DNMS/RI
John D. Kinneman, Chief, Materials Security & Industrial Branch
Sattar Lodhi, Senior Health Physicist, Materials Security & Industrial Branch
Karl Farrar, Regional Counsel/RI
Mark Mullen, Senior Special Agent/ Office of Investigations
John Wray, Enforcement Specialist
Sally Merchant, Senior Enforcement Specialist, NRC HQ (via phone)
Jenny Longo, Office of General Counsel, HQ (via phone)
Audry Hayes, NMSS, HQ (via phone)