Department of Energy
Idaho Operations Office
1955 Fremont Avenue
Idaho Falls, ID 83415

October 27, 2005

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

SUBJECT: Licensee Event Report (LER) 05-001-01 for the Fort Saint Vrain Independent Spent Fuel Storage Installation (FSV ISFSI) (Docket 72-09) (EM-FMDP-05-052)

REFERENCE: Letter, M. Gardner to NRC Document Control Desk, "Licensee Event Report (LER) 05-001-00 for the Fort Saint Vrain Independent Spent Fuel Storage Installation (Docket 72-09)", EM-FMDP-05-040, dated August 2, 2005

Dear Sir or Madam:

The referenced letter submitted LER 05-001-00 concerning the violation of operability and testing requirements for communications equipment at the FSV ISFSI required by the Physical Protection Plan. This deficiency was classified as a violation of Technical Specification 5.4.1, which includes a requirement to provide implementing physical protection procedures. As part of the corrective actions for the referenced report, an additional violation of the FSV PPP was identified. This concerns allowing the Letter of Agreement with the Local Law Enforcement Agency to lapse. This condition (a recent expiration of a written agreement) was also found to exist for the other three written agreements used to implement the FSV ISFSI Emergency Response Plan. Because the interface agreement renewal process commenced early this calendar year and the agreements are expected to be approved this calendar year, and because interfaces between FSV personnel and the local organizations have remained effective (first through verbal agreement, and then followed by written agreement to bridge the gap until new agreements were in place), the expiration of the written agreements is considered to have had no safety or security consequences.

The enclosed LER is an update to the original to incorporate this additional non-compliant condition and is being sent pursuant to the Technical Specification 5.6.2 requirement that violations of Administrative Controls in the Technical Specifications are to be reported within 30 days of discovery. The enclosed report contains no safeguards information.

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If you have any questions please call me at (208) 526-5655.

Sincerely,

Mark D. Gardner
FSV/TMI-2 Facility Director

Enclosure

cc: Director, NMSS
NRC Region IV

Event Report 05-001-01	Facility: FSV ISFSI Docket: 72-09 Date: October 27, 2005

TITLE: Physical Protection Plan Commitment Not Implemented

I. ABSTRACT

The Fort St. Vrain (FSV) Independent Spent Fuel Storage Installation (ISFSI) Physical Protection Plan (PPP) has equipment operability and testing requirements for communications equipment. One of the testing requirements was implemented less frequently than described in the PPP. This deficiency was classified as a violation of Technical Specification 5.4.1, which includes a requirement to provide implementing physical protection procedures. In accordance with Technical Specification 5.6.2, violations of Administrative Controls in the Technical Specifications are to be reported within 30 days of discovery.

Upon discovery of this deficiency, corrective actions were taken to ensure the testing requirements were performed at the correct frequency. The extent of condition (inadequate PPP requirements roll-down into implementing procedures) was reviewed and no other deficiencies were discovered. The safety and security consequences of the less frequent communication checks were evaluated and were determined to be of low significance.

During the performance of a corrective action for this event, an additional failure to implement the PPP was discovered. This failure related to the requirement to have a current written agreement with the Local Law Enforcement Agency implementing interface commitments. This written agreement was originally approved in August 2000 and included a provision to be reauthorized every five years. This condition (a recent expiration of a written agreement) was also found to exist for the other three written agreements used to implement the FSV ISFSI Emergency Response Plan. Because the interface agreement renewal process commenced early this calendar year and the agreements are expected to be approved this calendar year, and because interfaces between FSV personnel and the local organizations have remained effective (first through verbal agreement, and then once discovered, and then followed by written agreement to bridge the gap until new agreements were in place), the expiration of the written agreements is considered to have no safety or security consequences. An additional immediate action taken is included in the revision to this report.

II. DESCRIPTION OF EVENT

CONDITIONS BEFORE THE EVENT

The spent fuel storage facility at FSV was built and licensed by Public Service Company of Colorado (PSCo). The FSV ISFSI was subsequently purchased by the Idaho Operations Office of the Department of Energy (DOE-ID) and an application to transfer the materials license, SNM-2504, from PSCo to DOE-ID was submitted to the Nuclear Regulatory Commission (NRC). Part of the license transfer submittal included a substantial revision to PSCo's security plan, which became DOE-ID's PPP.

Materials License SNM-2504 was transferred to DOE-ID on June 4, 1999 for the FSV ISFSI. The approval of this license transfer included the approval of the FSV ISFSI Technical

Specifications and the FSV ISFSI Safety Analysis Report (SAR).

DESCRIPTION OF LICENSED MATERIAL

This event was an administrative violation of Technical Specification 5.4.1. There was no damage to the facility and no impact on the condition or handling of licensed material. Therefore, no description of licensed material is needed for this event report.

DESCRIPTION OF EVENT

Materials License included a requirement as License Condition 12 to terminate interim physical protection measures and to follow the approved PPP. On September 30, 1999, DOE-ID informed NRC that the activities needed for DOE-ID to accept the license were complete and the license took effect. The requirement to implement the approved PPP was extended to January 1, 2000. Upon the termination of interim compensatory measures, TS 5.4.1 was violated because the implementing procedures did not address all of the requirements of the PPP.

METHOD OF DISCOVERY

During a review of the PPP, one of the commitments for communications equipment checks was observed to differ from actual practice. A review of previous revisions of the PPP and its implementing procedures showed that this noncompliance existed since the license condition for the PPP took effect. This discovery occurred on July 6, 2005.

During the performance of the corrective action to update the requirements roll-down of the PPP commitments, the expiration of the letter of agreement with the Local Law Enforcement Agency was discovered. This discovery was declared an additional violation of TS 5.4.1 on September 28, 2005. An additional corrective action is included in the IMMEDIATE ACTIONS TAKEN section.

IMMEDIATE ACTIONS TAKEN

1. Notification was made to operations management on July 6, 2005. It was determined that this condition constituted a noncompliance with Technical Specification 5.4.1, which states in part, "*Written procedures shall be established, implemented, and maintained for the following activities: ... physical protection ...*". This noncompliance with Technical Specification 5.4.1 was determined to be reportable in accordance with Technical Specification 5.6.2, which states in part, "*All instances of noncompliance with the ... or Administrative Controls within these Technical Specifications shall be reported in writing to the NRC Document Control Desk within 30 days of the discovery of non-compliance...*".

2. Temporary post instructions were provided on July 6, 2005, to ensure communication equipment checks are performed as required by the PPP. Performance of this instruction commenced on July 6, 2005.

3. A deficiency report was initiated on July 7, 2005, to document the problem and to document and track corrective actions. This deficiency report was updated on

October 17, 2005, to identify the additional failure to have current written agreements with external organizations in effect, including the Local Law Enforcement Agency.

4. The reauthorized written agreements with all but one of the external organizations, including the Local Law Enforcement Agency have been approved. The other has been reviewed by all parties and formal approval is expected to be documented on or before December 31, 2005. In the interim, a written commitment is in place to continue honoring the old agreement.

III. CORRECTIVE ACTIONS TO PREVENT RECURRENCE

CAUSE ANALYSIS

Failure to adequately implement the PPP is a failure of the requirements roll-down process used by DOE-ID to ensure regulatory compliance. In addition to initial requirements roll-down into implementing procedures, the process used by DOE-ID includes periodic assessment of the continued adequacy of the implemented requirements and commitments.

The causal factor associated is the failure of an established management control: Management Problem (A4), Change Management Less Than Adequate (B5); Change Related Documents Not Developed or Revised. The change related documents for this event are both the requirements roll-down document and the implementing procedure.

SAFETY/SECURITY CONSEQUENCES

Communication Checks: A review of the checks performed demonstrated that failures of the communication equipment subject to the checks of PPP section 8.3.1.B were not detected in the less frequent checks performed. Therefore, during the extended period of less frequent equipment checks, there was no period during which the more frequent equipment checks would have increased the equipment availability, as equipment failure had not occurred. Therefore, the consequences of this noncompliance are determined to be not significant.

Written Agreements: The written agreements with the external organizations, including the Local Law Enforcement Agency, were originally approved in 2000 and included a provision to be reauthorized every five years. Because the interface agreement renewal process commenced early this calendar year and the agreements are expected to be approved this calendar year, and because interfaces between FSV personnel and the local organizations have remained effective (first through verbal agreement, and then once discovered, followed by written agreement to bridge the gap until new agreements were in place), the expiration of the written agreements is considered to have no safety or security consequences.

PREVIOUS SIMILAR EVENTS

No similar technical specification violation has been reported for DOE-ID's FSV ISFSI or TMI-2 ISFSI.

CORRECTIVE ACTIONS

1. Security management performed an extent of condition assessment to determine whether other instances of inadequate PPP requirements roll-down into implementing procedures exist. That assessment was completed on July 27, 2005. No additional instances were found.

2. Update the implementing procedure to correctly address PPP Section 8.3.1.B. This action is expected to bewas completed by on September 3027, 2005.

3. Update the requirements roll-down of the PPP in the commitments matrix and place this matrix on a periodic review schedule. During the performance of this corrective action, the additional failure to implement (failure to maintain current) a written agreement with the Local Law Enforcement Agency was discovered on September 28, 2005. The action to update the requirements roll-down of the PPP in the commitments matrix was completed on September 29, 2005.

IV. DATE EXPECTED TO ACHIEVE FULL COMPLIANCE

Communication equipment checks have been performed in accordance with those temporary post instructions beginning on July 6, 2005, and in accordance with the revised management control procedure beginning on September 27, 2005. The written agreements are expected to be approved by all parties on or before December 31, 2005. Full compliance is expected to be achieved on or before December 31, 2005.

V. CONTACT FOR FURTHER INFORMATION

For further information, please contact Mark D. Gardner, FSV and TMI-2 Facility Director, at 208-526-5655.