

June 2, 2006

EA-06-138

Mr. C. M. Vaughan
Manager, Facility Licensing
Global Nuclear Fuel - Americas, LLC
Mail Code K-84
3901 Castle Hayne Road
Wilmington, NC 28401

SUBJECT: REPLY TO NOTICE OF VIOLATION 70-1113/2006-201-03 AND RESPONSE TO DISPUTED VIOLATION 70-1113/2006-201-02 REGARDING THE FAILURE TO IMPLEMENT A CREDITED SAFETY CONTROL REQUIRED BY APPROVED CRITICALITY SAFETY ANALYSIS

Dear Mr. Vaughan:

This letter refers to your correspondence dated March 21, 2006, in reply to our February 24, 2006, Inspection Report and Notice of Violations (NOV).

We have reviewed your reply to Notice of Violation 70-1113/2006-201-03 and have determined that although you have identified the reason for the violation, listed a number of broad corrective actions that will be taken to avoid further violations, and the date when full compliance was achieved, you have not provided, in sufficient detail, a description of the root cause nor the specific corrective actions taken. Your response should include further explanation of the administrative error identified as the root cause as well as all of the actions taken as part of your change request process for corrective actions regarding the incorrect posting violation. Therefore, in accordance with the provisions of 10 CFR 2.201, you are required to provide additional information supporting your corrective actions within 30 days of receipt of this letter. You may choose to include certain details in a proprietary section of your reply. We will evaluate your supplemental information and respond accordingly.

Your reply to Notice of Violation 70-1113/2006-201-03 indicated your view that the violation may have been more accurately characterized as a non-cited violation (NCV). In accordance with Section VI.A.8 of the U.S. Nuclear Regulatory Commission (NRC) Enforcement Policy, any one of the following circumstances will result in consideration of an NOV requiring a formal written response from a licensee: (a) the licensee failed to identify the violation; (b) the licensee did not correct or commit to correct the violation within a reasonable time by specific corrective action committed to by the end of the inspection, including immediate corrective action and comprehensive corrective action to prevent recurrence; and (c) the violation is repetitive as a result of inadequate corrective action; (d) the violation was willful. Because the violation was identified by the NRC, criteria (a) was met, and the violation cannot be characterized as an NCV.

In your reply to Notice of Violation 70-1113/2006-201-02, you disagreed with the cited violation. You stated that you were confused by the citing of a violation because the underlying issue was already part of IFI 2005-202-01, for which corrective actions were active in your tracking system, and the corrective actions were being accomplished in accordance with the management system for configuration management approved in the license. The basis for NRC's position will be articulated in the following discussion by addressing your position on the violation as discussed above in sequential order.

IFI 2005-202-01 referred to your commitment to revise the consolidated waste box analysis to adequately define the controls relied upon for double contingency protection of waste boxes stored in outside storage arrays. Violation 70-1113/2006-201-02 occurred as a result of corrective actions to address IFI 2005-202-01. Specifically, the violation involved waste box operations being performed under a temporary operating procedure (TOP) that did not adequately implement a credited safety control required by approved criticality safety analyses.

When the TOP was created, Revision 2 of the waste box storage criticality safety analysis had been cancelled. Subsequently, Revision 3 of the waste box storage criticality safety analysis was approved but not implemented. During this interim period between Revision 2 being cancelled and Revision 3 being implemented, waste box storage operations continued under a TOP which was being used without an underlying criticality safety analysis. Both revisions of the criticality safety analysis state, as a credited control for verifying uranium content, that waste boxes be separated and allowed to undergo a 60-day aging period before they are scanned and placed in high density storage without spacing requirements. The TOP only called for waste boxes to be scanned, and did not include the 60-day aging period. Based on our review of the information you provided in your response, the NRC has concluded that no new information was included that would change our earlier determination that a violation occurred.

Upon reconsideration and consultation with the Office of Enforcement, we have determined that the cited violation is valid and requires corrective action to prevent recurrence. You must take the necessary corrective measures to resolve this violation in accordance with applicable regulatory requirements. You are also required to respond to this letter within 30 days and should follow the instructions specified in our February 24, 2006, Inspection Report and Notice of Violation when preparing your response. In particular, you should include the reason for the violation and the corrective steps you have taken to avoid future violations. After reviewing your response to the Notice, the NRC will determine whether further enforcement action is necessary to ensure compliance with the regulatory requirements.

The violation was evaluated in accordance with the NRC Enforcement Policy. The current Enforcement policy is included on the NRC's Web site at www.nrc.gov; Select **What We Do, Enforcement**, then **Enforcement Policy**.

C.M. Vaughan

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In accordance with 10 CFR 2.390 of NRC's "Rules of Practice," a copy of this letter will be made publicly available in the public electronic reading room of the NRC's Agency-Wide Document Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/ADAMS.html>.

If you have any questions, please contact Natreon Jordan, of my staff, at (301) 415-7648.

Sincerely,

/RA/

Melanie A. Galloway, Chief
Technical Support Section
Special Projects Branch
Division of Fuel Cycle Safety
and Safeguards, NMSS

Docket No. 70-1113
License No. SNM-1097

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