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May 8, 2006  
GDP 06-0028

Mr. Michael R. Johnson  
Director, Office of Enforcement  
U.S. Nuclear Regulatory Commission  
Mail Stop 0-14E1  
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Rockville, Maryland 20852


**Paducah Gaseous Diffusion Plant (PGDP)  
Docket Number 70-7001, Certificate No. GDP-1  
Description of Actions Taken in Response to NRC Concern EA-06-079**

Dear Mr. Johnson:

The Nuclear Regulatory Commission's (NRC) letter of April 6, 2006 (See Reference), requested that United States Enrichment Corporation (USEC) provide a written response that describes the actions taken or planned to assure there is not a chilling effect on the willingness of employees to raise safety and compliance concerns within USEC or to the NRC as a result of the January 27, 2006 Administrative Law Judge Tierney's Recommended Decision and Order. The enclosure to this letter provides the requested information.

If you have any questions regarding this review, please contact Steven Toelle (301) 564-3250. There are no new commitments contained in this submittal.

Sincerely,

  
R. B. Starkey, Jr.

UMSS01

Mr. Michael R. Johnson  
May 8, 2006  
GDP 06-0028

Reference: Letter from Michael R. Johnson (NRC) to Russell B. Starkey (USEC),  
Alleged Discrimination (U.S. Department of Labor, Office of  
Administrative Law Judges Case No. 2004-ERA-0001), dated April 6,  
2006.

Enclosure: USEC Response to NRC Concern EA-06-079

cc: J. Henson, NRC Region II  
D. Martin, NRC-HQ  
R. Arrighi, NRC-HQ  
R. DeVault, DOE

## USEC Response to NRC Concern EA-06-079

### I. INTRODUCTION

The Nuclear Regulatory Commission's letter of April 6, 2006, requested that the United States Enrichment Corporation (USEC) provide a written response that describes the actions taken or planned to assure there is not a chilling effect on the willingness of employees to raise safety and compliance concerns within USEC or to the NRC. The NRC's request was made following a recommended decision and order issued by Administrative Law Judge (ALJ) Tierney concluding that USEC had violated Section 211 of the Energy Reorganization Act when terminating the employee subject to the ALJ's decision.

To respond to this request, USEC evaluated Safety Conscious Work Environment (SCWE) indicators to identify trends that provide insight into the overall health of the SCWE at PGDP generally, and the functional organization that was affected by the ALJ's decision, specifically. USEC has found no evidence that the ALJ's decision has had any adverse effect on the quality of the SCWE at PGDP. USEC believes that the comprehensive actions that it has previously taken to establish and maintain a SCWE, those actions that it took upon issuance of the ALJ's decision, and those actions that are planned will effectively counter any potential adverse perception created by the ALJ's decision and will ensure the continued vitality of the SCWE at PGDP.

The details of USEC's key actions taken and planned to maintain a SCWE and its evaluation of the SCWE at PGDP are discussed below.

### II. ACTIONS TAKEN AND PLANNED TO MAINTAIN A SCWE

USEC has an unwavering commitment to maintain its SCWE and strives to continually enhance it. To that end, USEC has taken and continues to take actions to ensure that managers foster an environment where employees feel comfortable raising concerns of any nature. USEC believes that one of the most important factors in ensuring that a SCWE is maintained is to ensure that managers exhibit behaviors that foster a SCWE. Actions taken in the past to establish a strong SCWE culture include the following:

- PGDP's annual Business Plan has included initiatives to promote the maintenance of a healthy SCWE since 2001.
- Managers were provided 12 hours of industry recognized SCWE training consisting of an eight hour initial course which began in 1999, and a four hour follow-on course which began in 2001.
- In 1999, USEC established the Heads Up Team (HUT) to provide on-going monitoring of issues potentially impacting the SCWE and to act as a consulting group to assist managers in responding to SCWE related issues.

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- **USEC developed and implemented an initial and refresher SCWE training program for managers of USEC contractors in 2005. Since 2000, applicable USEC contracts have required contractors and vendors to comply with the employee protection requirements of Section 211 of the Energy Reorganization Act of 1974 and 10 CFR 76.7.**
- **Functional Organization Managers were provided case studies to further reinforce SCWE principles in 2000 and again in 2002.**
- **Functional Organization Managers have conducted SCWE case studies with subordinate managers annually since 2003.**
- **In 2004, Functional Organization Managers provided a briefing to employees on safety culture attributes.**
- **Functional Organization Managers review and monitor SCWE trends on an on-going basis.**
- **In 2003, actions were taken to ensure annual performance plans for managers include performance factors for maintaining a SCWE.**
- **In 2001 and 2002, Functional Organization Managers wrote and published articles on SCWE in the PGDP newsletter to demonstrate support for SCWE concepts. In 2003 selected Group-level managers also wrote and published articles on SCWE in the PGDP newsletter.**
- **In 2005, USEC revised its Business Code of Conduct to include a section on expectations for maintaining a SCWE. USEC's Business Code of Conduct encourages employees to raise nuclear safety or compliance concerns and prohibits discrimination against any individual for reporting these concerns through any path they choose. Employees were provided training on the Business Code of Conduct and were required to sign a form indicating they have read, understand and agree to comply with the code.**

As noted above, USEC routinely includes initiatives in the annual Business Plan to promote the maintenance of a healthy SCWE. The following initiatives are included in the PGDP's CY 2006 Business Plan:

- **Functional Organization Managers will be regularly briefed on key SCWE indicators.**
- **The HUT will review key Employee Concerns Program (ECP) indicators on a monthly basis.**
- **The HUT will meet with the General Manager (GM) at least twice a year to discuss SCWE trends.**
- **Functional Organization Managers will conduct presentations that reinforce SCWE concepts with management staff. These presentations will focus on the principles necessary to encourage the raising of safety and compliance issues.**

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Following the ALJ's recommended decision, USEC also initiated the following actions that are specific to the functional organization and group where the subject employee previously worked:

- Functional Manager met with affected group to discuss the ALJ's recommended decision and to re-emphasize the importance of reporting problems.
- Functional Manager met with direct reports to reinforce safety culture elements and attributes.
- Functional Manager reviewed USEC's Code of Business Conduct expectations with employees within organization. This included expectations for reporting concerns, avenues available for reporting concerns and expectations for maintaining a SCWE.

The Functional Manager for the organization where the subject employee previously worked also initiated the following on-going actions prior to the ALJ's decision:

- Functional Manager includes SCWE as a topic in the organization's weekly staff meetings and attends selected group meetings to promote reporting concerns.
- Group managers in the affected group routinely include SCWE as a topic during staff meetings to promote reporting concerns.

USEC believes that these actions are adequate to maintain an environment where employees feel free to raise safety and compliance concerns within USEC or to the NRC. The actions taken to date have resulted in a significant long term decline in the number of concerns that employees have chosen to report to NRC. At the same time employees have continued to file Assessment and Tracking Reports (ATR's) and Employee Concerns via the ECP. USEC believes this reflects a willingness to report concerns internally and increased employee confidence in management's response to these concerns. Although the number of concerns reported to NRC has declined, some employees continue to choose to report their concerns to NRC.

### **III. EVALUATION OF INDICATORS**

USEC routinely monitors key SCWE indicators and provides regular briefings to Functional Organization Managers to allow early identification and correction of issues that may impact the overall health of the SCWE at PGDP. These key indicators provide 12 month trends of programs that are available to employees to raise concerns including the ATR Program, the ECP, and the NRC's Allegation Program. The following provides a summary of the analysis of the trends for PGDP overall, for the Supervisor who replaced the employee subject to the ALJ's decision, for the Group and Functional Organization where the subject employee previously worked, and a summary of the observations of the ECP Manager/HUT Chairman.

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### **PGDP Overall 12 Month Trends:**

The latest 12 month trends (April, 2005 through March, 2006) indicate that employees continue to report problems through internal (ATRs/ECP) and external (NRC) avenues for raising concerns at a fairly consistent level. During this 12 month period the average number of ATRs initiated on a per person basis has remained fairly steady although a decline in the total number of ATRs occurred coincident with the November, 2005 workforce reductions. The decline is expected considering that there are fewer employees available to initiate ATRs. In the two months following the ALJ's decision the total number of ATRs initiated is about the same or higher than the two months preceding the ALJ's decision.

The trend lines for concerns reported to the ECP and NRC continue to remain relatively constant with the number of concerns brought to the ECP averaging approximately two per month while the number of concerns reported to NRC averages less than one per month. The 12 month trends indicate that overall, employees at PGDP continue to use both internal and external avenues for raising concerns at about the same rate as before with no discernable changes occurring following the ALJ's decision.

### **Trends Specific to Current Group Supervisor:**

Reviews of ATR initiation trends were performed for the affected group manager, affected group and for the affected functional organization as a whole. The evaluation determined that the current group manager has initiated approximately 112 ATRs since the spring of 2003 when the previous group manager's employment with USEC was terminated. The group manager has continued to initiate ATRs in the two months following the ALJ's recommended decision at a rate that is equal or better than the two months preceding the ALJ's decision.

### **Trends Specific to Affected Group:**

The trend lines for the group show that the number of ATRs generated has been increasing during the period following January 2003 when the subject employee was terminated. The number of ATRs initiated by the affected group in the two months following the ALJ's recommended decision is approximately the same as the two months preceding the ALJ's decision.

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### **Trends Specific to Affected Functional Organization :**

The combined number of ATRs initiated for all departments within the affected functional organization show a slightly increasing trend in the number of ATRs generated since January 2003. The number of ATRs initiated in the two months following the ALJ's recommended decision is approximately the same as the two months preceding the ALJ's decision. The ATR generation data also indicates the majority of ATRs written in the functional organization are initiated by the group where the subject employee previously worked.

### **ECP Manager/HUT Chairman Observations:**

As noted earlier, USEC established the HUT to provide on-going monitoring of issues potentially impacting the SCWE, and to act as a consulting group to assist managers in responding to SCWE related issues. HUT reviews issues potentially impacting the SCWE. HUT is a multidiscipline team that monitors SCWE conditions and tries to anticipate and react to potential SCWE issues at the earliest opportunity. The HUT meets on a monthly basis and is chaired by the ECP Manager. The HUT membership includes senior managers from a variety of functional areas to enhance the breadth of the HUT's review. The HUT also provides recommendations directly to the GM regarding SCWE related issues.

Discussions with the ECP Manager/HUT chairman were conducted to determine if there were concerns originating within the affected functional organization which may indicate a potentially chilled environment. The ECP Manager indicated that there have been no concerns from the functional area related to potential chilling, and there have been no anonymous concerns related to the functional area which could indicate employees do not want to be identified because they fear retaliation. The ECP Manager further indicated that the HUT has discussed the potential impact of the ALJ's decision on the SCWE and concluded that none of the information they have reviewed as part of their on-going monitoring of the SCWE suggests the ALJ's decision has created, or is likely to create, a chilling effect at PGDP.

## **IV. CONCLUSIONS**

During the years preceding the issuance of the ALJ's decision, USEC took a number of actions to enhance the work environment. Those actions led to a dramatic decline in the number of concerns being raised with the NRC and the DOL due to improvements in the employees' trust and confidence in management's positive reaction and response to

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concerns raised. USEC has created and continues to nurture a safety conscious work environment.

Because of the strength of the environment and because of the actions taken immediately following the issuance of the ALJ's decision, the decision has not had any noticeable effect on the workers' willingness to raise issues with management. USEC's analysis of key SCWE data determined that there are no indications that the ALJ's decision has created a chilling effect. Nevertheless, management will continue to monitor the situation carefully to ensure that the work environment on-site and, in particular, the work environment in the affected work group, remain strong and receptive to the raising of concerns.