

August 18, 2006

J. L. Shepherd, President
J. L. Shepherd & Associates
1010 Arroyo Ave.
San Fernando, California 91340-1822

SUBJECT: NRC INSPECTION REPORT NO. 71-0122/2006-201 AND NOTICE OF
NONCONFORMANCE

Dear Mr. Shepherd:

On July 25-27, 2006, the Nuclear Regulatory Commission (NRC) conducted an inspection of the J. L. Shepherd & Associates (JLS&A) facility at San Fernando, California. The inspection was conducted to 1) evaluate the current implementation of JLS&A's quality assurance program (QAP), 2) determine the status of commitments JLS&A made related to the June 30, 2005, Confirmatory Order Rescinding Order, and 3) assess the adequacy of corrective actions taken by JLS&A in response to a violation identified during the November 2004 NRC inspection.

The NRC inspection assessed that JLS&A was adequately implementing the QAP, and that corrective actions for the violation cited in the 2004 NRC inspection were adequate. Concerns were noted with respect to the training program and in engineering design and procurement procedures. Several observations were noted regarding procedure adequacy or adherence that merit attention.

JLS&A currently maintains a full-scope NRC-approved QAP; however, JLS&A does not currently possess an NRC CoC, having retired their only two CoCs since the last NRC inspection. JLS&A plans to apply for a CoC for a new packaging design for which preliminary design activities are currently being conducted.

The inspection concluded that JLS&A's implementation of its QAP failed to meet certain NRC requirements. The NRC identified two findings involving procedural non-compliances. The specific findings and references to the pertinent requirements are identified in the enclosures of this letter. The findings are being cited as nonconformances with 10 CFR Part 71, Subpart H, because they constituted failures to meet commitments in JLS&A's NRC-approved QAP.

Please provide us within 30 days from the date of this letter a written statement in accordance with the instructions specified in the enclosed Notice of Nonconformance. We will consider extending the response time if you can show good cause for us to do so.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure(s), and your response 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>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Sincerely,

/RA/

Robert J. Lewis, Section Chief
Transportation and Storage Safety and
Inspection Section
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No.: 71-0122

Enclosures:

1. NRC Inspection Report 71-0122/2006-201
2. Notice of Nonconformance

cc: Richard Boyle, Department of Transportation

J. L. Shepherd

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Robert J. Lewis, Section Chief
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cc: Richard Boyle, Department of Transportation

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**U.S. NUCLEAR REGULATORY COMMISSION
Office of Nuclear Material Safety and Safeguards
Spent Fuel Project Office**

Inspection Report

Docket No.: 71-0122

Report No.: 71-0122/2006-201

Certificate Holder: J. L. Shepherd & Associates

Dates: July 25-27, 2006

Inspection Location: J. L. Shepherd & Associates
1010 Arroyo Ave.
San Fernando, California 91340-1822

Inspection Team: Robert Temps, Team Leader, SFPO
Frank Jacobs, Inspector, SFPO
Sheila Ray, Engineer, SFPO

Approved by: Robert J. Lewis, Chief
Transportation and Storage Safety
and Inspection Section
Spent Fuel Project Office, NMSS

ENCLOSURE 1

EXECUTIVE SUMMARY

J. L. Shepherd & Associates
NRC Inspection Report No. 71-0122/2006-201

On July 25-27, 2006, the Nuclear Regulatory Commission (NRC) conducted an inspection of the J. L. Shepherd & Associates (JLS&A) facility at San Fernando, California. The inspection was conducted to 1) evaluate the current implementation of JLS&A's quality assurance program (QAP), 2) determine the the status of commitments JLS&A made related to the June 30, 2005, Confirmatory Order Rescinding Order, and 3) assess the adequacy of corrective actions taken by JLS&A in response to a violation identified during the previous NRC inspection in November 2004.

The NRC inspection assessed that JLS&A was adequately implementing the QAP, and that corrective actions for the violation cited in the 2004 NRC inspection were adequate. Concerns were noted with respect to the training program and in engineering design and procurement procedures. Several observations were noted regarding procedure adequacy or adherence that merit attention.

JLS&A currently maintains a full-scope NRC-approved QAP; however, JLS&A does not currently possess an NRC CoC, having retired their only two CoCs since the last NRC inspection. JLS&A plans to apply for a CoC for a new packaging design for which preliminary design activities are currently being conducted.

The inspection concluded that JLS&A's implementation of its QAP failed to meet certain NRC requirements. The NRC identified two findings involving procedural non-compliances. The specific findings and references to the pertinent requirements are identified in the following report and in Enclosure 2. The findings are being cited as nonconformances with 10 CFR Part 71, Subpart H, because they constituted failures to meet commitments in JLS&A's NRC-approved QAP.

LIST OF ACRONYMS USED

CoC	Certificate of Compliance
JLS&A	J. L. Shepherd and Associates
M&TE	Measuring and Test Equipment
NCR	Nonconformance Report
NRC	US Nuclear Regulatory Commission
QA	Quality Assurance
QAP	Quality Assurance Program
QAPP	Quality Assurance Program Plan
QAM/QP	Quality Assurance Manual/Quality Procedure

PERSONS CONTACTED

The inspection team held an entrance meeting on July 25, 2006, and on July 27, 2006, an exit meeting was held to present the preliminary findings of the inspection. Meeting attendees are listed in the table below.

Name	Title/Affiliation	Entrance*	Exit*
Rob Temps	Team Leader, NRC	X	X
Rob Lewis	Section Chief, NRC	X	X
Frank Jacobs	Inspector, NRC	X	X
Sheila Ray	General Engineer, NRC	X	X
Shirley Needham	QA Assistant, JLS&A	X	X
Diana Shepherd	VP-Operations, JLS&A	X	X
Cindy Harper	QA Assistant, JLS&A	X	X
Bill Brown	QA Manager, JLS&A	X	X
Donald Neely	Independent Auditor	X	X
Mary Shepherd	VP-Licensing, JLS&A		X
J L Shepherd	President, JLS&A		X

* "X" Designates attendance at meeting

INSPECTION BACKGROUND

On July 25-27, 2006, the Nuclear Regulatory Commission (NRC) conducted an inspection of the J. L. Shepherd & Associates (JLS&A) facility at San Fernando, California. The inspection was conducted to 1) evaluate the current implementation of JLS&A's quality assurance program (QAP), 2) determine the the status of commitments JLS&A made related to the June 30, 2005, Confirmatory Order Rescinding Order, and 3) assess the adequacy of corrective actions taken by JLS&A in response to a violation identified during the previous NRC inspection in November 2004.

November 2004 Inspection

The NRC conducted an inspection November 16-18, 2004, at the J. L. Shepherd and Associates (JLS&A) facility at San Fernando, California. The inspection was conducted to evaluate JLS&A's current implementation of their quality assurance program (QAP) and to assess the adequacy of corrective actions in regard to findings identified during the previous

U. S. Nuclear Regulatory Commission (NRC) inspection in April 2003. The NRC team identified the following issues:

- One violation comprising multiple examples where activities affecting quality were not prescribed in documented instructions and procedures, or where procedures and instructions prescribing quality activities were not followed.
- That JLS&A had not maintained adequate configuration control of quality documents.
- That while internal audits were being performed adequately, the completion of external audits was progressing too slowly to be a timely representation of JLS&A's supplier performance. The team expressed concern regarding JLS&A's ability to adequately perform the remaining large number of Part 71 supplier evaluations by the end of 2004 to meet their triennial audit cycle as required by JLS&A procedures. The team also noted that an external audit schedule had not been prepared as required by procedure.
- That temporary changes were made to quality procedures in an unapproved manner and that some quality records had improperly recorded information, indicating a lack of attention to detail.
- A purchase order for torque wrench calibration did not specify appropriate tolerance and range information as required by JLS&A procedures. The measuring and test equipment (M&TE) database log did not have appropriate categories/headings for entry of applicable information for M&TE controls, and the basis for existing entries could not be substantiated.

June 2005 Order Rescinding Previous Order

On June 30, 2005, the NRC lifted the Order (EA-01-164) that had been in effect and JLS&A began to fully implement their QA program. JLS&A had voluntarily refrained from performing any NRC CoC design/modification activities until such time as the Order was lifted. The June 30, 2005, Order Rescinding Previous Order, contained five commitments that JLS&A agreed to implement as a condition for the lifting of the Order. Those conditions were:

1. JLS&A shall continue implementing its new QA Procedures such that reviews are conducted to ensure that all activities under the scope of Part 71 are governed by procedures defining the activity, documenting the activity, and providing audit trail of the activity performed.
2. The Independent Auditor shall continue to perform quarterly audits verifying the implementation of the conditionally approved JLS&A Quality Assurance Program Plan and Implementing Procedures. Reports shall be provided quarterly by the 20th day of the month following completion of the audit. Any areas of nonconformance, not self identified by JLS&A, shall be reported to NRC.
3. JLS&A shall keep monthly statistics regarding QA Program implementation and procedure adherence. Such statistics shall include the number of nonconformances, the nature of the nonconformances, and indicate those nonconformances that are

referred to the corrective action processes. Such information shall be provided to the Independent Auditor who will report any areas of concern to NRC during scheduled reports.

4. JLS&A shall immediately stop work or cause to be stopped any work which would result in a potential hazard to public health and safety.
5. Conditions 1 through 4 shall remain in effect for one year from date of rescission of the July 3 Order, or until the Independent Auditor shall issue four successive quarterly reports that show no violation of NRC regulations and effective implementation of the JLS&A Quality Assurance Program.

REPORT DETAILS

1. Configuration Controls

a. Inspection Scope

The inspection team performed a review to determine if JLS&A had implemented adequate configuration controls by review of current program processes and procedures.

b. Observations and Findings

During the 2004 inspection, the NRC identified two findings in this area that were cited in the violation for failure to follow procedures or to have adequate procedures for activities affecting quality. Specifically:

1. JLS&A procedure QAM/QP (Quality Assurance Manual/Quality Procedure) 6.0, "Document Control," provides specific instructions on the issuance of procedures and their distribution to those requiring controlled distribution. Contrary to these requirements, the NRC identified that out-of-date revisions of procedures were contained in a QAM.
2. JLS&A procedure QAM/QP 5.0, "Instructions, Procedures and Drawings," does not provide a method for making temporary changes to procedures. Contrary to QAM/QP procedure requirements, while reviewing data inspection sheets, the NRC noted the following handwritten change had been added to the bottom of several data sheets: "REV 2: 10/22/04 (TEMPORARY) per new DOT regulations."

The team reviewed corrective actions for the findings above and assessed that they were adequate. As noted below, no repeat findings were noted in the documents reviewed during this inspection.

During the current inspection, the team reviewed QAM/QP 6.0, "Document Control" which provides instructions on the issuance of procedures and their distribution to those

requiring controlled distribution. The onsite controlled copies of the QAM were reviewed for labeling of “controlled copy” and the control identification number, and to verify they contained the current revision as indicated in the table of contents. The controlled QAMs onsite were determined to be properly labeled and numbered, and they contained the current revisions.

The team identified an observation during its review of the QAM/QPs and the JLS&A Quality Assurance Program Plan (QAPP). Specifically, the team noted that Section 2.8 of the QAPP, “Implementing Procedures,” references QAM/QP documents that no longer exist, and in several instances the titles for referenced QAM/QPs did not match the current titles of the same QAM/QPs. The team also noted several instances in the QAPP and in various QAM/QPs where references were made to obsolete portions of 10 CFR Part 71 (e.g. 71.12 in effect prior to October 1, 2004, which is now 71.17) and at least one instance where a definition (Transport Index) in the current regulations differs from what is in the JLS&A procedure.

The team identified an observation regarding the use of master controlled forms that are kept separately from the QAM. The team noted that forms located in the QAM are sample forms and for reference only as a guide for aiding in the proper way to complete them. The team noted that two forms, entitled “Audit Report” and “Quality Records Access Control Roster,” are referenced in QAM procedures by title but that samples of the forms were not included in the procedures. The team also noted that several forms in the QAM differed from those in the master controlled forms book in that technical information was different between the sample forms and the controlled forms. Also, a form contained as enclosure 3 to QAM/QP 13.4, “Shipping,” is not referenced in the main procedure and that same form, in the controlled forms book, was stamped as “obsolete.” Lastly, form 13-4-5, a checklist for empty packages, is not included in any QAM procedure. This observation was shared with JLS&A personnel so that appropriate corrective actions could be taken to address the apparent inconsistencies in the forms and in the QAM. The team also noted that the most recent quarterly audit report, by the JLS&A independent auditor, identified issues with the control of QAM/QP forms and the team’s observation in this area provides further aspects of that issue to be considered by JLS&A.

c. Conclusions

The team concluded that JLS&A was adequately maintaining configuration control of quality documents. Observations were identified with respect to the accuracy of information in the QAPP and in QAM/QPs and regarding the control of forms in the QAM/QPs.

2. Audit Controls

a. Inspection Scope

The inspection team performed a review to determine whether acceptable auditing procedures and practices are in place and reflected in the review of recently performed audits, and reviewed JLS&A’s actions in response to the 2004 Violation.

b. Observations and Findings

The team reviewed JLS&A's corrective actions for two findings that were cited in this area during the 2004 inspection. Specifically, during the 2004 inspection, the NRC identified two findings that were cited in the violation for failure to follow procedures or to have adequate procedures for activities affecting quality. Specifically:

1. QAM/QP 18.0, "Audits," step 5.6, requires that audit reports include, as applicable, purpose and scope statements and statements regarding the effectiveness of QA program implementation. Contrary to this requirement, the NRC noted that neither type of statement was included in JLS&A audits 04-01, 04-02, 04-03, 04-04, 04-05, 04-06, 04-14, and 04-15.
2. Step 5.2 of QAM/QP 18.0 requires the QA manager prepare an annual internal and external audit schedule. Contrary to this procedural requirement, no external audit schedule had been prepared for 2004.

During the July 2006 inspection, the team reviewed the 2006 internal audit schedule and reviewed several JLS&A audit reports for that year. Each audit report's cover sheet and supporting documents conformed to QAM/QP 18.0 requirements. Audit checklists were developed and used, and audit results were described in adequate detail on the checklists. External audits were not reviewed as they are performed on a three year cycle and none were due in 2006.

The team also noted that since the 2004 inspection, JLS&A has implemented a formal process for conducting surveillances of program areas and that numerous surveillances (over 100) have been performed since implementation of the program. The team reviewed a sample of surveillances and determined that they cover all aspects of JLS&A's QAP and that issues are being identified and entered into the corrective action program for formal resolution.

c. Conclusions

The team assessed that audits are being adequately performed in accordance with QAM/QP requirements and that formal initiation of a surveillance program was a good initiative on JLS&A's behalf. Overall improvement was noted in this area from previous inspections.

3. Nonconformance Controls

a. Inspection Scope

The inspection team performed a review to determine the acceptability of the JLS&A nonconformance process in identifying issues in regard to program implementation for transportation package use, and reviewed JLS&A's actions in response to the 2004 Violation.

b. Observations and Findings

During the 2004 inspection, the NRC identified one finding in this area that was cited in the violation for failure to follow procedures or to have adequate procedures for activities affecting quality. Specifically:

1. QAM/QP 15.0, "Control of Nonconforming Items," step 5.2 states that: "Validated Nonconformance Reports (NCRs) shall be entered into the NCR Log or database and assigned a unique sequential tracking number. A current file copy shall be kept by QA until NCR closure. The NCR Log or databases shall contain, as a minimum, the following information: NCR number, issue date, disposition, name, and organization responsible for action, schedule completion date, and NCR closed date." Step 6.0 states, in part, that all records generated by this procedure are considered Quality Records and shall be maintained by the department/activity involved and QA. Contrary to these requirements, a review of the NCR Log indicated that the NCR numbering scheme was not being implemented consistently and that none of the NCR Log entries contained all of the required information. Also, JLS&A QA was unable to produce a complete file of all NCRs (completed and/or pending) and the NRC noted several instances where the QA file that was produced, contained hard copies of NCRs that were not entered into the NCR Log.

During the July 2006 inspection, the team verified that corrective actions were adequately implemented to address the above violation. The team determined that NCRs are entered and tracked in the corrective action system and that they are centrally filed and readily retrievable. The use of trend codes has been further developed and their use allows for meaningful review and identification of trends. A sample of NCRs reviewed indicated timely corrective action for identified issues and that issue resolution was appropriate to the nature of the issues. No concerns were identified.

c. Conclusions

The team assessed that the JLS&A corrective action program is being adequately implemented and that overall, improvement has occurred in this area from previous inspections.

4. Inspection Controls

a. Inspection Scope

The inspection team reviewed corrective actions by JLS&A to a violation identified in this area in the previous NRC inspection.

b. Observations and Findings

During the 2004 inspection, the NRC had one finding in this area that was cited in the violation for failure to follow procedures or to have adequate procedures for activities

affecting quality. Specifically:

1. JLS&A procedures QAM/QP 13.0, "Handling, Shipping, and Storage," and QAM/QP 13.1, "Inspection of Packages Used in Shipping," provide instructions on use of CoC packages; however, they are written only for the use of JLS&A CoC packages, specifically, CoC 6280 overpacks. The NRC determined that JLS&A used non-JLS&A packages, CoC packages 6574 and 9208, but that controls on their use were not recognized by approved procedures such as QAM/QP 13.0 and 13.1.

The team reviewed corrective action for this violation and determined that the appropriate QAM/QPs have been revised to reflect additional controls on the use of non-JLS&A NRC CoC packages.

c. Conclusions

The team assessed that adequate corrective actions were taken to provide for additional controls on the use of non-JLS&A NRC CoC packages.

5. Employee Training

a. Inspection Scope

The inspection team reviewed the employee training program to verify that JLS&A has provided adequate training for all personnel performing quality-related functions through the use of an approved training procedure/program. The team also reviewed the program to verify that training for employees is acceptably prepared and to show that JLS&A personnel are trained and qualified on the appropriate procedures for quality-affecting activities.

b. Observations and Findings

The team reviewed procedures QAM/QP 2.0, "Organization and Staffing," QAM/QP 2.1, "Qualification of Audit Personnel," QAM/QP 2.2, "Qualification of Inspectors," and QAM/QP 2.3, "Employee Training." It was noted that in Section 2 of QAM/QP 2.0, two reference titles were not consistent with the titles in the current procedures with the corresponding procedure numbers. Subsequent reviews and sampling of other procedures revealed additional discrepancies in references to procedures, which in some instances were not obvious, and could be misleading to the procedure user. These observations were shared with JLS&A personnel, together with the document discrepancies discussed in Section 1 of this inspection report, for appropriate action.

The team identified a finding regarding a failure to meet the requirements of paragraph 1.4 of the QAPP which states that proficiency re-evaluations be performed and documented on an annual basis. Contrary to the QAPP requirement, during the inspection on July 27, 2006, documentation of the most recent annual re-evaluation of a lead auditor's qualifications had not been performed within one year of the last re-evaluation dated September 27, 2004. This nonconformance is cited in the enclosed Notice of Nonconformance. Audit documentation indicated that the individual had performed lead auditor functions during the ten months for which the required annual re-

evaluation of proficiency had not been performed. JLS&A management acknowledged that the individual had not been re-examined within the one year requirement.

QAM/QP 2.0, paragraph 4.3, requires the training coordinator to document the qualifications of instructors and to evaluate instructors and media to ensure quality of training. Paragraph 5.4 requires the training coordinator to review training plans and media prior to presentation and paragraph 5.5 requires the QA department to approve lesson plans prior to performance of training. The team identified a finding in that the qualifications of instructors were not documented as required by QAM/QP 2.0, although the training coordinator stated that the subject matter expertise of instructors was considered prior to assignment of training responsibilities. This nonconformance is cited in the enclosed Notice of Nonconformance. The team also noted an observation in that while some classroom training lesson plans were signed as approved by the QA department, there was no objective (auditable) evidence produced that systematic review and approval of training plans, media, and instructors was being performed as required by the procedure.

The team identified an observation with respect to QAM/QP 2.0 which states training requirements for an individual/position, including intervals of training/certification, be determined by the responsible manager for that individual/position. An individual matrix of training requirements for each employee is maintained, listing the subject, experience required, actual experience, training or retraining required, and date training received. The matrix column for training/retraining required was marked for each subject with "yes," "no," or "N/A." The team noted that the date or period for the required training/retraining could not be determined from the matrix, which may limit its effectiveness as a training and qualification management tool. Additionally, the actual experience (years) column on matrices for some individuals had not been updated annually, which may call into question the accuracy of other information in the matrices.

The team identified an observation with respect to lead auditor qualifications. Paragraph 5.3.5 of QAM/QP 2.1 requires participation in five audits and that the five audits used as the basis for the qualification be documented on the lead auditor certification form. Contrary to the procedure, the lead auditor certification form for a lead auditor was signed by the QA manager on May 30, 2006, and did not list the audits used as the basis for qualification. Also, the lead auditor certification form for another lead auditor, signed September 13, 2005, did not list the audits used as the basis for qualification. The QA Manager showed the team where a different QAM/QP appears to give the QA Manager latitude in granting qualifications without an individual having to perform the requisite number of audits; however, QAM/QP 2.1 does not recognize this option. JLS&A agreed to review the inconsistencies in the QAP/QM and consider appropriate action.

c. Conclusions

The team identified two findings; the first concerned the failure to perform an annual re-evaluation for a lead auditor's qualifications, and the second concerned the failure to document the qualifications of training instructors. The team also noted several observations with regard to inconsistencies in training procedures and records.

6. Design Control

a. Inspection Scope

Verify that JLS&A has adequate procedures in place governing new package design activities that are currently being conducted.

b. Observations and Findings

The team reviewed JLS&A Internal Audit 06-03, "Design Control," dated March 27, 2006, and performed by the QA manager. The scope of the audit was compliance with the design procedure series QAM/QP 3.0 through QAM/QP 3.6. The team reviewed procedures QAM/QP 3.0 through QAM/QP 3.6 and reviewed Purchase Order No. 18033, dated September 22, 2005, for the performance of preliminary designs and structural dynamics analyses for a new Type B package. The purchase order noted that Part 21 applies and that offerors must complete the JLS&A QA program training.

In the absence of an engineer filling the position of Senior Engineer/Engineering Manager with responsibility for design activities, JLS&A has established a Design Committee to perform that function as provided for in QAM/QP 3.0, "Design Control." The Design Committee had documented minutes of three meetings related to the development of the new Type B package. JLS&A had contracted with two engineers to perform conceptual design work for the new package and these individuals provided calculations and sketches to JLS&A. Although the engineers had been qualified by JLS&A and placed on the Approved Supplier List, the QA Manager stated that the work they had performed was conceptual and preliminary and not considered to be an activity affecting quality. The QA Manager acknowledged that the preliminary documentation would be part of the technical basis in the application for package approval. The team discussed the need to be able to validate that work under JLS&A's QA program.

The last meeting of the Design Committee was on January 9, 2006, and included a review of the JLS&A "Project Quality Plan for Design, Fabrication of Prototype, Testing, Approval, Maintenance, and Use of Type B Radioactive Materials shipping Package," Rev. 1, dated January 9, 2005. The team reviewed the project quality plan and observed that the plan appeared to be primarily a restatement of selected requirements from 10 CFR Part 71 and the guidance contained in NRC Regulatory Guide 7.9, "Standard Format and Content for Approval of Packages for Radiological Material." The team noted that the Table of Contents was inconsistent with the organization and contents of the document, and that the plan did not contain sufficient information or detail to satisfy the quality activities implied in the Table of Contents or the intentions stated in the Purpose section. The QA Manager stated that the project quality plan had not been implemented, that it required additional work, and that it would be completed prior to any design work beyond the concept stage.

c. Conclusions

The team identified and offered several observations regarding new packaging design controls that JLS&A will need to address as they proceed with package certification from the NRC.

7. **Measuring and Test Equipment Calibration Program**

a. Inspection Scope

The inspection team performed a review to verify that JLS&A measuring and test equipment (M&TE) used in quality related activities is adequately controlled and that corrective actions for M&TE issues from the 2004 inspection were implemented.

b. Observations and Findings

During the 2004 inspection, the NRC had two findings in this area that were cited in the violation for failure to follow procedures or to have adequate procedures for activities affecting quality. Specifically:

1. QAM/QP 12.0, "Control of Measuring and Test Equipment," step 5.2.2, requires that calibration accuracy/tolerance requirements shall be set and documented for each Category 1 M&TE item and that this information shall be stated on the M&TE Master List (which is maintained as a database). Contrary to this requirement, the M&TE Master List database did not have the proper M&TE range, and accuracy/tolerance specifications for equipment included on the list.
2. Step 5.2.6 of QAM/QP 12.0 requires that requisitions for calibration services for Category 1 M&TE shall be processed in accordance with procedure QAM/QP 7.0, "Control of Purchased Materials, Parts, Components and Services," and that purchase requisitions shall include the following as a minimum:
 - Unique M&TE number (Item serial number).
 - A complete description of the (Make, Model, Serial No., Range, etc.)
 - Required accuracy to be met.
 - Special statements, necessary to define the calibration requirements such as manufacturer's instructions, specific checks, tests, ranges, measurement acceptance, and adjustment tolerances.

Contrary to these requirements, no instrument range, accuracy, or tolerance was specified in the purchase order for the calibration of torque wrench QA 69.

During the July 2006 inspection, the team reviewed QAM/QP 12.0 which governs the M&TE calibration program at JLS&A. The program is controlled by the QA Manager and maintained by the Calibration Coordinator. The procedure states the responsibilities, requirements, and instructions for the control and use of Category 1 M&TE and that the M&TE Master List should contain the make of the instrument, serial number, description, tolerance range, calibration frequency, calibration date and calibration due date. The team reviewed the M&TE Master List and determined that it contained all the information as required by the procedure. Through interviews, the team gathered information on how the M&TE list is maintained and how often it is updated. Records were reviewed for a sample of M&TE Master List instruments. Calibration stickers, certificates of compliance, and purchase orders were reviewed and determined to be in accordance with QAM/QP 12.0 requirements. The team also verified that vendors performing calibrations were on the approved suppliers list. Corrective actions for the 2004 violation were determined to be adequate.

c. Conclusions

The team found the M&TE program to be adequately implemented, and that corrective action to the 2004 Violation were appropriate and implemented.

8. June 30, 2005, Confirmatory Order Rescinding Order

The team reviewed the status of JLS&A's fulfillment of the five conditions that were included in the June 30, 2005, Confirmatory Order Rescinding Order (EA-01-164). JLS&A had agreed to these conditions as part of the basis for issuing the rescinding order. The conditions were:

1. JLS&A shall continue implementing its new QA Procedures such that reviews are conducted to ensure that all activities under the scope of Part 71 are governed by procedures defining the activity, documenting the activity, and providing audit trail of the activity performed.
2. The Independent Auditor shall continue to perform quarterly audits verifying the implementation of the conditionally approved JLS&A Quality Assurance Program Plan and Implementing Procedures. Reports shall be provided quarterly by the 20th day of the month following completion of the audit. Any areas of nonconformance, not self identified by JLS&A, shall be reported to NRC.
3. JLS&A shall keep monthly statistics regarding QA Program implementation and procedure adherence. Such statistics shall include the number of nonconformances, the nature of the nonconformances, and indicate those nonconformances that are referred to the corrective action processes. Such information shall be provided to the Independent Auditor who will report any areas of concern to NRC during scheduled reports.
4. JLS&A shall immediately stop work or cause to be stopped any work which would result in a potential hazard to public health and safety.
5. Conditions 1 through 4 shall remain in effect for one year from date of rescission of the July 3 Order, or until the Independent Auditor shall issue four successive quarterly reports that show no violation of NRC regulations and effective implementation of the JLS&A Quality Assurance Program.

Conditions 1 and 3 were verified to have been met based on the extent of activities inspected during the the July 2006 inspection. Condition 2 was verified to have been met based on receipt and review of the Independent Auditor's quarterly audits by the NRC. The inspection team verified that Condition 4 has not been required to be invoked by JLS&A since the issuance of the June 2005 Confirmatory Order Rescinding Order. The team was indeterminate in its determination as to whether the Condition 5 had been fully satisfied. The team consulted with the NRC's Office of Enforcement on this matter and subsequently, JLS&A was requested to communicate their position on the satisfaction of the fifth condition directly with the NRC' Office of Enforcement.

9. Exit Meeting

On July 27, 2006, at the conclusion of the inspection, the team held an exit meeting with JLS&A management and the independent auditor, to present the preliminary inspection findings. JLS&A management acknowledged the inspection findings presented by the team. No proprietary information was discussed.

NOTICE OF NONCONFORMANCE

J. L. Shepherd & Associates
San Fernando, California

Docket No. 71-0122

Based on a U.S. Nuclear Regulatory Commission (NRC) inspection conducted at J. L. Shepherd and Associates (JLS&A) in San Fernando, California, on July 25-27, 2006, it appears that certain of your activities were not conducted in accordance with NRC requirements.

- A. 10 CFR 71.111, "Instructions, procedures, and drawings," requires in part that activities affecting quality be prescribed in instructions or procedures of a type appropriate to the circumstances and shall require that these be followed.

Contrary to this requirement, the NRC identified the following examples where the JLS&A Quality Assurance Program Plan (QAPP) or the Quality Assurance Manual/Quality Procedures (QAM/QPs) were not followed:

1. Paragraph 1.4 of the QAPP states that proficiency re-evaluations be performed and documented on an annual basis. Contrary to the QAPP requirement, as of the inspection on July 27, 2006, documentation of the most recent annual re-evaluation of a lead auditor's qualifications had not been performed within one year of the last re-evaluation that was dated September 27, 2004.
2. QAM/QP 2.0, paragraph 4.3, requires the training coordinator to document the qualifications of instructors. Contrary to this requirement, JLS&A was unable to produce written evidence showing that the qualifications of instructors had been documented as required by QAM/QP 2.0.

Please provide a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to Robert J. Lewis, Chief, Transportation and Storage Safety and Inspection Section, Spent Fuel Project Office, within 30 days of the date of the letter transmitting this Notice of Nonconformance. This reply should be clearly marked as a "Reply to a Notice of Nonconformance" and should include for each nonconformance: (1) the reason for the nonconformance, or if contested, the basis for disputing the nonconformance, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further noncompliances, and (4) the date when your corrective action will be completed. Where good cause is shown, consideration will be given to extending the response time.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will

ENCLOSURE 2

create an unwarranted invasion of personal privacy or provide the information required by 210 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection, described in 10 CFR 73.21.

Dated this 18th Day of August 2006