



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005

February 20, 2008

EA-06-281
EA-07-289

Mr. Charles Brignac
President
Accurate NDE and Inspection, LLC
209 Industrial Trace
Broussard, LA 70518

SUBJECT: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY)
(NRC INSPECTION REPORT 150-00017/05-009 AND OI INVESTIGATION
REPORT NO. 4-2006-015)

Dear Mr. Brignac:

The enclosed Confirmatory Order is being issued to Accurate NDE and Inspection, LLC, (Accurate NDE) as a result of a successful Alternative Dispute Resolution (ADR) mediation session. The commitments in the Confirmatory Order were made by Accurate NDE as part of a settlement agreement between Accurate NDE and the NRC regarding an NRC enforcement action. By letter dated March 20, 2007, the NRC issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$13,000 for willful failures of Accurate NDE employees to: (1) secure from unauthorized removal a radiographic exposure device; (2) wear required personnel dosimetry during radiographic operations; and (3) provide complete and accurate information on documents provided to an NRC inspector. Our March 20, 2007, letter offered you, in lieu of submitting the required response, the option of requesting ADR in an attempt to resolve any disagreements between you and the NRC. You requested ADR to resolve this matter with the NRC.

ADR is a general term encompassing various techniques for resolving conflicts outside of court using a neutral third party. The technique that the NRC currently employs is mediation. On November 7, 2007, an ADR mediation session was conducted between you and the NRC. Based on that mediation, you and the NRC reached a settlement agreement. In summary, you agreed that the violations cited in the March 20, 2007, Notice of Violation, did occur and that the violations involved willfulness on the part of the radiographer and radiographer's assistant involved. You also agreed to take extensive corrective actions to prevent these violations from recurring. The NRC considers that the actions in the attached Confirmatory Order are sufficient to address our concerns and has also agreed to reduce the civil penalty to \$500.

As evidenced by your signed "Consent and Hearing Waiver Form" (copy enclosed) dated January 21, 2008, you agreed to issuance of this letter and Confirmatory Order.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Order shall be subject to criminal prosecution as set forth in that section. Violation of this Order may also subject the person to civil monetary penalty.

A copy of this letter and the enclosed Confirmatory Order will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC will also include these documents at <http://www.nrc.gov/about-nrc/regulatory/enforcement.html>; then select **Significant Enforcement Actions**. Your response to the Confirmatory Order also will be made available electronically for public inspection in the NRC public Document Room or from the NRC's document system (ADAMS). Therefore, to the extent possible, any response you provide should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

If you have any questions or comments concerning this letter, please contact Ms. Christi Maier, Enforcement Specialist at 817-860-8217 or Ms. Karla Fuller, Regional Counsel and Team Leader for the Allegation Coordination and Enforcement Staff, at 817-860-8271.

Sincerely,

/RA/

Elmo E. Collins
Regional Administrator

Enclosures:

1. Confirmatory Order
2. Consent and Hearing Waiver Form

cc w/Enclosures:

State of Louisiana Radiation Control Program Director

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DWhite, OI		

SISP Review Completed: mcm ADAMS: Yes Initials: mcm
 Publicly Available Non-Publicly Available Sensitive **Non-Sensitive**

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
Accurate NDE and Inspection, LLC)	Docket No. 150-00017
Broussard, Louisiana)	General License Pursuant to
)	10 CFR 150.20
)	EA-06-281; EA-07-289

CONFIRMATORY ORDER
(EFFECTIVE IMMEDIATELY)

I

Accurate NDE and Inspection, LLC (Accurate NDE or Licensee) is the holder of a general license pursuant to 10 CFR 150.20 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission). This general license was granted to Accurate NDE at various times during calendar years 2005, 2006, and 2007.

II

An NRC inspection was conducted at an Accurate NDE temporary job site located on an oil and gas platform in offshore Federal waters within the Gulf of Mexico on December 20, 2005. Following that inspection, an investigation was initiated on January 17, 2006, by the NRC's Office of Investigations (OI) to determine whether a radiographer and a radiographer's assistant, employed by Accurate NDE, willfully violated NRC regulations.

Based on the results of the NRC inspection and OI investigation, the NRC determined that three violations of NRC requirements occurred. The violations involved: a failure to secure an industrial radiography exposure device containing licensed material, as required by

10 CFR 20.1801 and 10 CFR 20.1802; permitting an individual who did not wear a direct reading dosimeter, an operating alarm ratemeter, and a personnel dosimeter, during radiographic operations, to act as a radiographer's assistant, in contradiction of 10 CFR 34.47(a); and the failure to provide complete and accurate information to an NRC inspector, as required by 10 CFR 30.9(a), by providing a falsified daily radiation report. The NRC also determined that each of the violations resulted from willful actions on the part of the radiographer and the radiographer's assistant involved. Therefore, the three violations were categorized in accordance with the NRC Enforcement Policy as a Severity Level III problem.

III

In a letter dated March 20, 2007, the NRC issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$13,000 for the Severity Level III problem. In the March 20, 2007, letter, the NRC offered Accurate NDE the opportunity to request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve issues associated with this problem. In response, Accurate NDE requested ADR to resolve the matter with the NRC. ADR is a process in which a neutral mediator, with no decision-making authority, assists the NRC and Accurate NDE to resolve any differences regarding the matter.

An ADR session was conducted between Accurate NDE and the NRC in Baton Rouge, Louisiana, on November 7, 2007. During that ADR session, an Agreement in Principle was reached. The elements of the agreement consisted of the following:

1. Accurate NDE will confirm that amended procedures for offshore radiographic activities have been submitted to the State of Louisiana for review and approval as appropriate; and submit those procedures to the NRC for information.

2. Accurate NDE will develop and implement a detailed radiation safety and security checklist for radiography crews to complete; the checklist is to include communication with the company Radiation Safety Officer or management after completion of the checklist: (1) before leaving for an offshore job and (2) once arriving at the job site, if the ability to communicate is available. The Checklist should include a sign-off by the radiographer that they have briefed the Safety Representative/Responsible Manager on the offshore job site regarding licensed activities. Accurate NDE will include these requirements in licensee procedures.

3. Accurate NDE will develop and provide training to all employees regarding potential consequences for wrongdoing; for new employees, before working with radioactive material; and annually thereafter for all employees involved in radiographic activities.

4. Accurate NDE will ensure that requirements for security of radiographic devices including requirements associated with the increased controls order and contingency actions, if unable to lock and monitor radiographic devices, are included in licensee procedures.

5. Accurate NDE will develop and implement a program for offshore audits of radiographic operations. Audit requirements and audit frequency will be included in procedures. Audit frequency will include at least one offshore audit each calendar year.
6. Accurate NDE will develop and issue a company policy encouraging employees to report problems on the job site.
7. Accurate NDE will develop and issue a personal letter from the Company President or Radiation Safety Officer to current employees regarding expectations for compliance with NRC regulations.
8. Accurate NDE will develop and publish an article in the company newsletter, or equivalent, regarding this case. Specifically, include that employee actions did cause adverse consequences for the company and for the individual.
9. All of the above requirements shall be completed by Accurate NDE within 120 days of the effective date of this Order.
10. In recognition of Accurate NDE's cooperative efforts, extensive corrective actions and good faith effort, the NRC agrees to reduce the civil penalty originally proposed to \$500.

On January 21, 2008, Accurate NDE consented to issuing this Order with the commitments, as described in Section V below. Accurate NDE further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

IV

Since the Licensee has agreed to take additional actions to address NRC concerns, as set forth in Item III above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that the Licensee's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and the Licensee's consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, the Commission's regulations in 10 CFR 2.202, 2.205, 10 CFR Parts 20, 34, and 150, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

1. Accurate NDE will confirm that amended procedures for offshore radiographic activities have been submitted to the State of Louisiana for review and approval as appropriate; and submit those procedures to the NRC for information.
2. Accurate NDE will develop and implement a detailed radiation safety and security checklist for radiography crews to complete; the checklist is to include communication

with the company Radiation Safety Officer or management after completion of the checklist: (1) before leaving for an offshore job and (2) once arriving at the job site, if ability to communicate is available. The checklist shall include a sign-off by the radiographer that they have briefed the Safety Representative/Responsible Manager on the offshore job site regarding licensed activities. Accurate NDE will include these requirements in licensee procedures.

3. Accurate NDE will develop and provide training to all employees regarding potential consequences for wrongdoing; for new employees, before working with radioactive material; and annually (at intervals not to exceed 12 months) thereafter for all employees involved in radiographic activities.
4. Accurate NDE will ensure that requirements for security of radiographic devices including requirements associated with the increased controls order and contingency actions, if unable to lock and monitor radiographic devices, are included in licensee procedures.
5. Accurate NDE will develop and implement a program for offshore audits of radiographic operations. Audit requirements and audit frequency will be included in procedures. Audits frequency will include at least one offshore audit each calendar year.
6. Accurate NDE will develop and issue a company policy encouraging employees to report problems on the job site.

7. Accurate NDE will develop and issue a personal letter from the Company President or Radiation Safety Officer to current employees regarding expectations for compliance with NRC regulations.
8. Accurate NDE will develop and publish an article in the company newsletter, or equivalent, regarding this case. Specifically, Accurate NDE will include that employee actions did cause adverse consequences for the company and for the individual.
9. All of the above requirements shall be completed by Accurate NDE within 120 days of the effective date of this Order.
10. Within 30 days from the date of this Confirmatory Order, Accurate NDE and Inspection, LLC must pay the reduced civil penalty of \$500 in accordance with NUREG/BR-0254 and submit to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, a statement indicating when and by what method payment was made.

The Regional Administrator, NRC Region IV, may relax or rescind, in writing, any of the above conditions upon a showing by Accurate NDE of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than Accurate NDE, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of

Enclosure 1

time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August, 2007, 72 Fed. Reg. 49,139 (Aug. 28, 2007). The E-Filing process requires participants to submit and serve documents over the internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at HEARINGDOCKET@NRC.GOV, or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate also is available on NRC's public website at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public website at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC website at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 C.F.R. 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted

by (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their works.

If a person other than Accurate NDE requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 C.F.R. 2.309(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Elmo E. Collins, Regional Administrator

Dated this 20th day of February, 2008