



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET SW SUITE 23T85
ATLANTA, GEORGIA 30303-8931

March 29, 2004

IA-04-001

Mr. Kelvin D. Hopson
[HOME ADDRESS DELETED
PER 10 CFR 2.390]

SUBJECT: NOTICE OF VIOLATION (OFFICE OF INVESTIGATIONS REPORT
NO. 2-2003-024 AND NRC INSPECTION REPORT NO. 70-143/2002-11)

Dear Mr. Hopson:

This letter is in reference to an inspection conducted by the Nuclear Regulatory Commission (NRC) from November 24, 2002, to January 18, 2003, at the Nuclear Fuel Services, Inc., (NFS) facility located in Erwin, Tennessee, and an investigation completed by the NRC's Office of Investigations (OI) on July 25, 2003. The purpose of the inspection and investigation was to review the circumstances surrounding your involvement in the transfer of low enriched uranium and whether the transfer was conducted without the required verifications and reviews.

The preliminary results of the inspection and investigation regarding the identification of an apparent violation of the NRC's rule prohibiting deliberate misconduct, 10 CFR 70.10, were forwarded to you by letter of January 16, 2004. The NRC also forwarded to you additional details of the investigation by letter dated January 20, 2004. The NRC afforded you an opportunity to request a predecisional enforcement conference on this matter, and on February 5, 2004, a closed conference was conducted at the NFS facility with you to discuss the apparent violation, its significance, root causes, and your corrective actions. A listing of conference attendees is included as Enclosure 3. Enclosures 4 and 5 contain information presented by you and the NRC, respectively.

Based on the information developed during the inspection and investigation and the information that you provided at the predecisional enforcement conference, the NRC has determined that you engaged in deliberate misconduct in violation of 10 CFR 70.10, Deliberate Misconduct. This rule prohibits any employee of a licensee from engaging in deliberate misconduct that causes a licensee to be in violation of any rule, regulation, or order of the NRC or any condition of a license. In this case, while performing as a supervisor, you failed to perform required reviews and verifications that sample results were within limits, failed to perform required verifications of valve positions and tank inspections, and failed to be present for the operation as required. Your actions caused the licensee to be in violation of the following requirements: NFS License Condition S-1; Section 2.7 of NFS's License Application; NFS Letter Of Authorization (LOA) - 8828-036, Handling Miscellaneous Solutions During the [REDACTED] D&D Projects; [REDACTED] (addendum to LOA-8828-036), which required supervision to perform verifications, reviews, and observations during this operation. The violation is cited in the enclosed Notice of Violation (Notice) (Enclosure 1). Enclosure 2 includes a copy of the letter and Notice of Violation issued to NFS in this matter. Given the significance of the underlying issue and the deliberate nature of your actions, this violation has

been categorized in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, at Severity Level III.

At the conference, you described in detail the facts and circumstances involving the transfer, the causes, the lessons learned, and accepted full responsibility for your actions. When this issue was brought to your attention by your supervisor the following day, you immediately took action to verify that a safety problem did not exist. In addition, you were cooperative during NFS's review of the incident and with the NRC during our review, and you shared the lessons learned from the event with your co-workers. Finally, you expressed both an appreciation for the importance of complying with procedures and an intent to do so in the future.

In determining the appropriate sanction to be issued in this case, the NRC considered issuing an Order prohibiting your involvement in NRC-licensed activities as a result of your actions. However, after consultation with the Director, Office of Enforcement, and after considering the circumstances of this case, including the fact that the actual safety significance was low, the NRC has decided to issue the enclosed Notice of Violation. You should be aware that if you are involved in NRC-licensed activities in the future, additional deliberate violations could result in more significant enforcement action or civil action.

Based on the information you provided at the conference regarding the lessons learned from this incident and your intent to comply with procedural requirements in the future, you are not required to respond to this letter unless this description does not accurately reflect your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure(s), and your response, if you choose to provide one, 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>. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Significant Enforcement Actions**.

If you have any questions regarding this matter, please contact Douglas M. Collins, Director, Division of Fuel Facility Inspection, at 404-562-4700.

Sincerely,

/RA/

Luis A. Reyes
Regional Administrator

Enclosures:

1. Notice of Violation
2. Notice of Violation to NFS
3. Conference Attendees
4. Information Presented by the Individual
5. Information Presented by the NRC

CERTIFIED MAIL 7002 3150 0005 7023 4838
RETURN RECEIPT REQUESTED

Distribution w/encls:

W. Travers, EDO
S. Rosenberg, OEDO
C. Paperiello, DEDMS
L. Chandler, OGC
D. Dambly, OGC
D. Cool, NMSS
F. Congel, OE
E. Julian, SECY
B. Keeling, OCA
Enforcement Coordinators
RI, RIII, and RIV
E. Hayden, OPA
G. Caputo, OI
H. Bell, OIG
L. Trocine, OE
K. Ramsey, NMSS
B. Westreich, NSIR
R. Way, NSIR
D. Ayres, RII
C. Evans, RII
S. Sparks, RII
K. Clark, RII
R. Trojanowski, RII
PUBLIC
OEMAIL
OEWEB
RII Docket File, DFFI

OFFICE	RII:DNMS	RII:ORA	RII:ORA	OGC
SIGNATURE	/RA/	/RA/		ACoggins for
NAME	DCOLLINS	CEVANS		DDambly
DATE	02/17/04	03/02/04		02/18/04 and 02/25/04
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO
OFFICE	NMSS	NSIR	OE	
SIGNATURE	MBurgess for		JLuehman for	
NAME	CMiller	Ralph Way	FCongel	
DATE	02/25/04	03/25/04	02/27/04 and 03/ /04	
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO

OFFICIAL RECORD COPY

DOCUMENT NAME: C:\ORPCheckout\FileNET\ML040900076.wpd

NOTICE OF VIOLATION

Mr. Kelvin D. Hopson

IA-04-001

During an NRC inspection conducted from November 24, 2002, to January 18, 2003, and an investigation completed by the NRC's Office of Investigations (OI) on July 25, 2003, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 70.10(a)(1) provides, in part, that any licensee or employee of a licensee may not engage in deliberate misconduct that causes or would have caused, if not detected, a licensee to be in violation of any rule, regulation, or order or any term, condition, or limitation of any license issued by the Commission.

Contrary to the above, on January 12, 2003, Mr. Kelvin D. Hopson caused a licensee, Nuclear Fuel Services, Inc. (NFS), to be in violation of a license issued by the Commission. Specifically, Mr. Hopson caused NFS to be in violation of Safety Condition S-1 of Special Nuclear Materials License No. SNM-124, Section 2.7 of the License Application, and NFS Letter Of Authorization (LOA) - 8828-036, Handling Miscellaneous Solutions During the ██████████ D&D Projects, when he deliberately failed to verify by review of the AESAS (At-Site Environmental Sample Assay System) sample result that discard limits were met, failed to verify that calculated sample results agreed within ██████████ did not notify the nuclear criticality engineer that the sample results were above the limits, did not perform required verifications of valve positions and tank indications, and did not observe the transfer of low enriched uranium solution as required by licensee procedures. Furthermore, the NRC determined that these actions constituted deliberate misconduct which resulted in the transfer of low enriched uranium solution without required verifications being conducted prior to and during the transfer.

This is a Severity Level III violation (Supplement VII).

Based on the information you provided at the conference, you are not required to respond to this letter unless this description does not accurately reflect your position. However, if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation: IA-04-001" and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region II, within 30 days of the date of the letter transmitting this Notice. If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S., Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, 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>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Dated this 29th day of March 2004

Enclosure 1

LIST OF ATTENDEES

Nuclear Regulatory Commission:

L. Reyes, Regional Administrator, Region II (RII)
C. Evans, Enforcement Officer and Regional Counsel, RII
D. Collins, Director, Division of Fuel Facilities Inspection (DFFI), RII
D. Rich, Senior Resident Inspector, DFFI, RII
L. Trocine, Enforcement Specialist, Office of Enforcement
K. Ramsey, Office of Nuclear Materials Safety and Safeguards (NMSS)
R. Pierson, NMSS

Individual:

K. Hopson, Decommissioning Supervisor, NFS

The following individuals attended at the request of Mr. Hopson:

D. Shapiro, Counsel for Mr. Hopson, Shaw Pittman
D. Ferguson, Chief Executive Officer, NFS
K. Schutt, President and General Manager, NFS
M. Moore, Vice President, Safety and Regulatory Management, NFS
D. Buck, Vice President of Human Resources, NFS
N. Newman, Vice President and General Counsel, NFS
T. Sheehan, Senior Project Manager, NFS
A. Ward, Assistant General Counsel, NFS
J. Nagy, Assistant to the Vice President, Safety and Regulatory Management, NFS

PREDECISIONAL ENFORCEMENT CONFERENCE AGENDA

**KELVIN D. HOPSON
FEBRUARY 5, 2004, 3:00 P.M.
ERWIN, TENNESSEE**

1. **OPENING REMARKS AND INTRODUCTIONS**
L. Reyes, Regional Administrator

2. **SUMMARY OF THE ISSUES**
L. Reyes, Regional Administrator

3. **NRC ENFORCEMENT POLICY**
C. Evans, Enforcement Officer

4. **STATEMENTS OF CONCERNS / APPARENT VIOLATIONS**
D. Collins, Director
Division of Fuel Facility Inspection

5. **INDIVIDUAL'S PRESENTATION**
Kelvin Hopson
Decommissioning Supervisor, Nuclear Fuel Services, Inc.

- VI. **BREAK/NRC CAUCUS**

- VII. **NRC FOLLOW-UP QUESTIONS**

- VIII. **CLOSING REMARKS**
L. Reyes, Regional Administrator

APPARENT VIOLATION

10 CFR 70.10(a)(1) requires, in part, that any licensee or employee of a licensee may not engage in deliberate misconduct that causes or would have caused, if not detected, a licensee to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Commission.

On January 12, 2003, Kelvin Hopson caused a licensee to be in violation of a license issued by the Commission. Kelvin Hopson caused NFS to be in violation of Safety Condition S-1 of Special Nuclear Materials License No. SNM-124, Section 2.7 of the License Application, and Nuclear Fuel Services Letter Of Authorization (LOA) - 8828-036, Handling Miscellaneous Solutions During ██████████ ██████████ D&D Projects, when he failed to verify by review of the AESAS sample result that discard limits were met; failed to verify that calculated sample results agreed within ██████████ did not notify the nuclear criticality engineer that the sample results were above the limits; and did not perform required verifications or observe the transfer of low enriched uranium solution as required by licensee procedures. These actions resulted in the transfer of low enriched uranium solution without conducting required verifications prior to and during the transfer.

The apparent violations discussed at this conference are pre-decisional and are subject to change.