

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of:

NUCLEAR FUEL SERVICES, INC.

ERWIN, TENNESSEE

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Docket No.: 70-143

License No.: SNM-124

**ORDER APPROVING INDIRECT TRANSFER OF
CONTROL OF LICENSE**

I

Nuclear Fuel Services, Inc., (NFS) is the holder of materials license No. SNM-124, which authorizes the possession and use of special nuclear material (SNM) at the NFS site in Erwin, Tennessee. The license also authorizes the possession and use of SNM in transportation packages (approved pursuant to 10 CFR Part 71) at other U.S. Nuclear Regulatory Commission (NRC)-licensed facilities, and in private carriage between NRC-licensed facilities within the United States.

II

By letter dated August 8, 2008, and supplemented by letters dated October 9, October 29, December 8, 2008, and emails dated October 31, November 5, and December 11, 2008 (collectively the Application), NFS requested the NRC's approval of the indirect transfer of control of license SNM-124 and Quality Assurance Program Approval 0249. As stated in the Application, the Transferor is NFS Services, LLC. The Transferor is the ultimate parent company that is selling NFS Holdings Inc. NFS is a wholly-owned subsidiary of NFS Holdings, Inc., a Delaware corporation,

which in turn is a wholly-owned, and an indirect subsidiary of the Transferor. NFS was originally incorporated in Maryland, in 1962 and subsequently changed the State of incorporation to Delaware in 2007. The Transferee is a holding company that was incorporated in 2008, and is a wholly-owned subsidiary of Babcock & Wilcox Nuclear Operations Group, Inc. ("B&W NOG"), which was incorporated in Delaware in November 2007. B&W NOG is a wholly-owned subsidiary of BWX Technologies, Inc. ("BWXT"). BWXT is a wholly-owned subsidiary of The Babcock & Wilcox Company ("B&W"). NFS will be an indirect subsidiary of the Transferee. The transaction will thus involve the indirect transfer of control over the NRC-issued license. Additionally, the Quality Assurance Program Approval (QAPA) 0249 will transfer from the Transferor to the Transferee.

The Transferee is NOG-Erwin Holdings, Inc. The Transferee will become the new owner of NFS Holdings, Inc., and thus the new owner of the NRC licensee. NFS will remain a wholly-owned subsidiary corporation of NFS Holdings, Inc., which will be a wholly-owned subsidiary of the Transferee, and thus an indirect subsidiary of B&W NOG. There will be no change in the management or technical personnel responsible for licensed activities. The current safety, security, and licensing organizations within NFS will remain unchanged. Additionally, there are no planned changes in the operational organization, location, facilities, equipment, or procedures associated with the NRC license, and there will be no changes in NFS operating or emergency procedures. Because the licensee remains the same, there will be no physical transfer of any records. All records concerning the safe and effective decommissioning of the facility, public dose, and waste disposal, will remain physically located, maintained and available at the Erwin, TN site. The Transferee will abide by, and be ultimately responsible for meeting, all commitments and representations previously made by NFS with respect to SNM License No. SNM-124. These include, but are not limited to, maintaining decommissioning records, implementing

decontamination activities, and eventually decommissioning the facilities and site. No physical or operational changes affecting the NFS site and licensed activities there were proposed in the Application.

Approval of the change of control was requested pursuant to 10 CFR 70.36. A notice of receipt of the application and opportunity to request a hearing and provide written comments was published in the *Federal Register* on September 19, 2008 (73 FR 54437-54439). No comments or requests for a hearing were received in response to the notice.

Pursuant to 10 CFR 70.36, no 10 CFR Part 70 license shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, unless the NRC, after securing full information, find that the transfer is in accordance with the provisions of the Atomic Energy Act of 1954, as amended (the Act), and give its consent in writing. After review of the information in the Application, and relying on the representations and agreements contained in the Application, the NRC staff has determined that NOG-Erwin Holdings, Inc., is qualified to hold the ownership interests previously held by NFS Services, LLC, and that the transfers of ownership and operating interests to NOG-Erwin Holdings, Inc., described in the Application, are otherwise consistent with applicable provisions of law, regulations, and previous NRC orders. These findings are subject to the conditions set forth below. The NRC staff further finds that: (1) The requested change of control will not be inimical to the common defense and security or to the health and safety of the public; and (2) the change of control will be in accordance with 10 CFR Part 51 of the NRC's environmental regulations, and all applicable requirements have been satisfied.

The findings set forth above are supported by NRC's Safety Evaluation Report, dated December 23, 2008.

III

Accordingly, pursuant to Sections 161b, 161i, 183, and 184 of the Act; 42 U.S.C. 2201(b), 2201(i), 2233, and 2234; and 10 CFR 70.36, IT IS HEREBY ORDERED that the application regarding the indirect transfer of control over license SNM-124 from NFS Services, LLC to NOG-Erwin Holdings, Inc., is approved, subject to the following conditions:

1. With respect to the NFS license (SNM-124), NOG-Erwin Holdings, Inc., as stated in the Application, will abide by all commitments and representations previously made by NFS Services, LLC. These include, but are not limited to, maintaining decommissioning records and financial assurance, implementing decontamination activities, and eventually decommissioning the site.
2. The commitments/representations made in the Application regarding reporting relationships and authority over safety and security issues and compliance with NRC requirements shall be adhered to and may not be modified without the prior written consent from the Director, Office of Nuclear Material Safety and Safeguards, or his designee.

IT IS FURTHER ORDERED that the conforming license amendment for the transfer of control shall be issued and made effective at the time that the proposed transfer of control is completed.

IT IS FURTHER ORDERED that NOG-Erwin Holdings, Inc., at least one (1) business day before all actions necessary to accomplish the indirect transfer of control over license SNM-124 are completed shall so inform the Director of the Office of Nuclear Material Safety and

Safeguards, in writing. If the necessary supporting actions have not been completed within 60 days from the date of issuance of this Order, this Order shall become null and void; provided, however, that, upon timely written application and for good cause shown, such completion date may be extended by further order.

This Order is effective on issuance.

For further details with respect to this Order, see the initial application dated August 8, 200; supplemental information dated October 9, October 29, and December 8, 2008; and the Safety Evaluation Report supporting this action, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible, electronically, through the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room, on the Internet, at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR reference staff, by telephone, at 1-800-397-4209, 301-415-4737, or via e-mail, to pdr@nrc.gov.

Dated and issued this 23rd day of December, 2008.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/
Michael F. Weber, Director
Office of Nuclear Material Safety
and Safeguards