

December 15, 2008

CAL 3-08-005

E. Kurt Hackmann, Director
Hematite Decommissioning Project
Westinghouse Electric Company
Nuclear Fuels
3300 State Road P
Festus, MO 63028

SUBJECT: CONFIRMATORY ACTION LETTER

Dear Mr. Hackmann:

The U.S. Nuclear Regulatory Commission (NRC) Region III recently conducted an inspection of your Hematite Decommissioning Project (HDP). During the inspection, you informed the NRC that you had identified uranium-235 (U^{235}) in the piping and high efficiency particulate air (HEPA) filter units within the Process Building. You subsequently submitted a 24-hour report to the NRC on November 19, 2008 (Event Notification Report 44668), with a follow-up report on November 21, 2008. These reports were based upon your determination that the quantity of U^{235} actually present was potentially greater than that previously reported to the NRC and used as a basis for an NRC License Amendment (Amendment 52, issued June 30, 2006) and might be of sufficient quantity to require criticality monitoring in accordance with 10 CFR 70.24.

Following a telephone conversation on November 26, 2008, between you and Keith McConnell, Deputy Director, Decommissioning & Uranium Recovery Licensing Directorate, and other members of your staff and the NRC, you issued a letter to document your commitments for activities to evaluate and quantify the amount of U^{235} in the HDP Process Building. In your letter to NRC Region III dated November 26, 2008, you identified specific actions that you intended to implement; these are restated below as items (1) through (5). It is our understanding that you will take the following actions:

- (1) Maintain in effect a "Stop Work Order" on all activities associated with the Process Building by restricting entry to the Process Building and its roof. The Stop Work Order was initiated on November 20, 2008.
- (2) Develop an approach (methodology) to regain access to the Process Building that includes the following:
 - a. Description of the appropriate safety precautions necessary to regain access;
 - b. Description of the types of measurements needed to complete the assessment of the remaining mass of U^{235} within the structure.
- (3) Prior to termination of the Stop Work Order, discuss the methodology, including safety precautions, with the NRC.

- (4) Provide the approach (methodology), including major milestones, to the NRC by December 19, 2008.
- (5) Before any Process Building piping or equipment removal or demolition activities are conducted, discuss the methodology, including safety precautions with the NRC.

This Confirmatory Action Letter will remain in effect until the NRC has confirmed that you are in compliance with your license requirements for the Process Building; including verification that the mass of U^{235} within the Process Building is less than the quantities specified in 10 CFR Part 70.24 requiring accidental criticality alarm capability. This Confirmatory Action Letter may be modified after your December 19, 2008, submittal is received to reflect the actions necessary to return to compliance.

Pursuant to Section 182 of the Atomic Energy Act, 42 U.S.C. 2232, you are required to:

- (1) Notify me immediately if your understanding differs from that set forth above;
- (2) Notify me if for any reason you cannot complete the actions within the specified schedule and advise me in writing of your modified schedule in advance of the change; and
- (3) Notify me in writing when you have completed the actions addressed in this Confirmatory Action Letter.

Issuance of this Confirmatory Action Letter does not preclude issuance of an order formalizing the above commitments or requiring other actions on the part of the licensee; nor does it preclude the NRC from taking enforcement action for violations of NRC requirements that may have prompted the issuance of this letter. In addition, failure to take the actions addressed in this Confirmatory Action Letter may result in enforcement action.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter 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. 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

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create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(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.

Sincerely,

/RA/

James L. Caldwell
Regional Administrator

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cc: State of Missouri

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Letter to E. Kurt Hackmann from James L. Caldwell dated December 15, 2008

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