



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION IV  
612 EAST LAMAR BLVD, SUITE 400  
ARLINGTON, TEXAS 76011-4125

February 24, 2009

EA-08-261

Raymond N. Dickes  
Radiation Safety Officer  
Schlumberger Technology Corporation  
200 Gillingham Lane  
Sugar Land, Texas 77478

SUBJECT: CONFIRMATORY ORDER (EFFECTIVELY IMMEDIATELY)  
(INSPECTION REPORT NO. 030-32023/08-001 AND OI INVESTIGATIONS  
REPORT NO. 4-2008-031)

Dear Mr. Dickes:

The enclosed Confirmatory Order is being issued to Schlumberger Technology Corporation (Schlumberger) as a result of a successful alternative dispute resolution (ADR) session. The enclosed commitments were made by Schlumberger as part of an agreement in principle between Schlumberger and the Nuclear Regulatory Commission (NRC) concerning two apparent violations for which the NRC was considering escalated enforcement action in accordance with the NRC Enforcement Policy.

In a letter dated December 1, 2008, the NRC provided you with the results of our inspection and an investigation completed by the NRC Office of Investigations (OI). The inspection was conducted to review the circumstances related to Schlumberger's October 4, 2007, report of a lost fluid density gauge containing licensed material. The purpose of the investigation was to determine if one of Schlumberger's former Radiation Safety Officers (site RSO) at its Rock Springs, Wyoming, field station willfully falsified inventory documents. Our letter noted that, based on information developed during the inspection and investigation, two apparent violations were identified for failures to (1) maintain required records complete and accurate as required by 10 CFR 30.9 and (2) maintain control over licensed material as required by 10 CFR 20.1802. Our letter also noted that, based on the evidence developed during the investigation, we were concerned that the former site RSO at Schlumberger's Rock Springs field station may have deliberately failed to conduct adequate inventories of licensed material which resulted in the record he developed documenting the inventory being inaccurate. A Factual Summary of the OI investigation was enclosed with our letter.

In addition, our December 1, 2008, letter offered you a choice to (1) attend a Predecisional Enforcement Conference, (2) provide a written response, or (3) request ADR with the NRC in an attempt to resolve any disagreement on whether a violation occurred, the appropriate enforcement action, and the appropriate corrective actions.

In response, Schlumberger requested ADR to resolve differences it had with the NRC concerning the apparent violations and, specifically, the association of potentially deliberate misconduct with one of the apparent violations. An ADR mediation session was held on January 22, 2009, at which an agreement in principle was reached. The elements of the preliminary agreement were formulated and agreed to at the mediation session and are contained within the enclosed Order.

As part of the agreement in principle, Schlumberger agreed to take a number of actions including developing and implementing an enhanced accountability and security program for licensed materials, conducting additional line management reviews of the radiation safety program, and paying a civil penalty in the base amount of \$3250. In recognition of these and other actions, as well as those actions already completed, the NRC agreed not to pursue further enforcement action against Schlumberger for the apparent violations discussed in the subject inspection report. The NRC will evaluate the implementation of Schlumberger's commitments in future inspections.

We have enclosed a Confirmatory Order (Effective Immediately) to confirm the commitments made as part of the agreement in principle. As evidenced by your signed "Consent and Hearing Waiver Form" (copy enclosed) dated February 23, 2009, 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 penalties.

You are not required to respond to this letter. However, if you choose to provide a response, please provide it within 30 days to the U.S. Nuclear Regulatory Commission, Regional Administrator, Region IV, 612 East Lamar Blvd., Suite 400, Arlington, Texas 76011-4125. Any response should be clearly marked as a "Reply to a Letter Transmitting a Confirmatory Order; EA-08-261."

If you have any questions or comments concerning this letter or the enclosed Confirmatory Order, please contact Ms. Christi Maier, Enforcement Specialist, at 817-860-8217 or Ms. Karla Fuller, Regional Counsel, at 817-860-8271.

A copy of this letter and its enclosures 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 this letter, and its enclosed Confirmatory Order on its web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement.html>; select Significant Enforcement

Actions. Your response, if you choose to provide one, will also be made available electronically for public inspection in the NRC Public Document Room or from ADAMS. Therefore, to the extent possible, any response you provide should not include any personal privacy or proprietary information so that it can be made available to the public without redaction.

Sincerely,

/RA/

Elmo E. Collins  
Regional Administrator

Docket No. 030-32023  
License No. 42-27055-01

Enclosures:

1. Confirmatory Order
2. Consent and Hearing Waiver Form

cc:

T. Michael Guiffré  
Counsel for Schlumberger  
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Washington, DC 20037-1350

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via e-mail:

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<a href="mailto:Crystal.Holland@nrc.gov">Crystal.Holland@nrc.gov</a>	OI Investigator	
NMSB-A Inspector(s)		

SUNSI Review Completed: MCM ADAMS: Yes No Initials: MCM  
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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	Docket No. 030-32023
Schlumberger Technology Corporation	)	License No. 42-27055-01
Sugar Land, Texas	)	EA-08-261

CONFIRMATORY ORDER MODIFYING LICENSE  
(EFFECTIVE IMMEDIATELY)

I

Schlumberger Technology Corporation (Schlumberger or Licensee) is the holder of Materials License No. 42-27055-01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30 on November 29, 1989, last amended on May 1, 2006, and due to expire on December 31, 2015. The license authorizes Schlumberger to possess and use sealed sources for use in conducting density measurements in accordance with conditions specified therein. The license authorizes use at specified field stations located in the States of Alaska, Virginia, West Virginia, and Wyoming. The license also authorizes use at temporary job sites of the licensee anywhere in the United States where the Commission maintains jurisdiction for regulating the use of licensed material.

II

In accordance with NRC protocols, on October 4, 2007, Schlumberger timely reported the loss of a fluid density gauge containing licensed material from its Rock Springs, Wyoming, facility. After identifying and reporting the missing gauge, Schlumberger took extensive actions in an attempt to find the gauge and conducted a thorough investigation into the circumstances

ENCLOSURE 1

surrounding the lost gauge. The gauge was not located. Schlumberger timely filed its written report pursuant to 10 CFR 20.2201 on November 15, 2007.

On January 29, 2008, the NRC conducted an inspection to review the circumstances related to Schlumberger's October 4, 2007, report of a lost fluid density gauge containing licensed material. Following that, on March 3, 2008, the NRC Office of Investigations (OI) began an investigation (OI Case No. 4-2008-031) of Schlumberger Technology Corporation. The investigation was conducted, in part, to determine if a Radiation Safety Officer (RSO) employed by Schlumberger at the Rock Springs, Wyoming, field station willfully falsified inventory documents. Based on the results of the inspection and investigation, the NRC determined that two apparent violations of NRC requirements occurred. The apparent violations involved failures to maintain required records complete and accurate as required by 10 CFR 30.9, and to maintain control over licensed material as required by 10 CFR 20.1802. The NRC also was concerned that the apparent failure to maintain required records complete and accurate as required by 10 CFR 30.9 might have resulted from deliberate misconduct on the part of the RSO at Schlumberger's Rock Springs, Wyoming, field station.

By letter dated December 1, 2008, the NRC transmitted the results of the inspection and investigation to Schlumberger Technology Corporation. In the December 1, 2008, letter, the NRC offered Schlumberger the opportunity to respond to the apparent violations, request a predecisional enforcement conference, or request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve issues associated with this matter. In response, on December 5, 2008, Schlumberger requested ADR to resolve this matter with the NRC.

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On January 22, 2009, the NRC and Schlumberger Technology Corporation met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. ADR is a process in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement on resolving any differences regarding the dispute. This confirmatory order is issued pursuant to the agreement reached during the ADR process.

### III

The January 22, 2009, ADR session between the NRC and Schlumberger was held in Arlington, Texas, in the NRC Region IV offices. During that ADR session, an Agreement in Principle was reached. The elements of the agreement consisted of the following:

1. The NRC acknowledges that Schlumberger identified a missing gauge and reported it to the NRC, and in addition, the NRC acknowledges that Schlumberger took extensive actions in an attempt to find the gauge and conducted a thorough investigation into the circumstances surrounding the lost gauge. However, the gauge was not found.
2. Within 180 days of the date of this order, Schlumberger will develop and implement a program that requires well site supervisors to ensure licensed material is accounted for and secured at temporary job sites.

3. Within 180 days of the date of this order, Schlumberger will develop and implement a program that requires line managers to review security and accountability of licensed material assigned to their operating locations (base and temporary job sites).
4. Schlumberger's corporate radiation safety staff will conduct annual radiation safety audits at the Rock Springs, Wyoming, field station through calendar year 2010. This shall include audits of temporary job sites that will include, but not be limited to, compliance with security and transportation regulations associated with licensed radioactive material.
5. Within 180 days of the date of this order, Schlumberger will develop and implement a required annual training program that describes the requirements in 10 CFR 30.9 and 10 CFR 30.10 to employees using licensed material. This training is to include the potential consequences individuals may experience for violations of 10 CFR 30.10. This training will be included in Schlumberger's initial training program.
6. Within 90 days of the date of this order, Schlumberger will submit a license amendment request, for Materials License No. 42-27055-01, to incorporate the changes to its inventory procedure, to include the photographic inventory process.
7. The NRC agrees not to pursue any further enforcement action against Schlumberger in connection with the NRC's December 1, 2008, Inspection Report 030-32023/08-001 issued to Schlumberger and will not count this matter as previous enforcement for the



purposes of assessing potential future enforcement action civil penalty assessments in accordance with Section VI.C of the Enforcement Policy. The NRC, however, will evaluate Schlumberger's compliance with this confirmatory order; and consider enforcement action for any violations identified, as appropriate.

8. In consideration of the extensive actions taken and the additional actions to be taken by Schlumberger, the NRC will issue a civil monetary penalty only in the base amount of \$3250. Schlumberger will pay the civil penalty within 30 days of the effective date of this order.
  
9. The NRC acknowledges the extensive actions taken by Schlumberger, which include:
  - In 2005, Schlumberger started a program entitled, "U.S. Compliance Audits," to conduct audits every 3 years of each field station by a corporate team of experts. These audits include temporary job sites.
  
  - Schlumberger's local site personnel conduct annual self-assessments of various programs, including the radiation safety program.
  
  - There is a pre-existing Schlumberger code of ethics which includes a tiered approach on discipline. Management involvement is included in the process. Employees are given mechanisms to identify and report perceived non-conformances.

- Photographic inventories of licensed material are conducted at least annually. Schlumberger's business system generates a random, 6-digit number on a monthly basis that must be in the photograph to ensure the inventory occurs in a given month.
- Confirmation inventories of licensed radioactive material are conducted every 3 months.
- Third-party leak test analysis results are provided to the corporate radiation safety office for review.
- Training has been provided to Schlumberger's U.S. employees, who work with licensed materials, on the legal ramifications of willful failures to follow NRC regulations.
- Training has been provided to Schlumberger's Rock Springs, Wyoming, personnel on security for transport and shipping requirements. This training was conducted in December 2007 and January 2008.
- Training has been provided to Schlumberger's U.S. employees on radiation safety and control of licensed material. This training was conducted during the first quarter of 2008.

- World-wide training on security and control of gauges and inventory controls (photographic inventory) was conducted.
- A Quality Health Safety and Environment alert was issued within the company describing the circumstances surrounding the event related to Schlumberger's October 4, 2007, report of a lost fluid density gauge, and discussing the importance of the security of licensed material. This alert went out to site management located in the United States and Canada.
- Procedural changes were made on how and where licensed materials are stored at Schlumberger's Rock Springs, Wyoming, field station. An enhanced security system is now in place at Rock Springs, Wyoming.

It was noted in the agreement that the NRC concluded that two violations of NRC requirements occurred. The violations involved: (1) a failure to maintain control over licensed material occurred, which constitutes a violation of 10 CFR 20.1802, and (2) a site RSO at Schlumberger's field station located at Rock Springs, Wyoming, deliberately failed to provide complete and accurate information on the records documenting physical inventories, which constitutes a violation of 10 CFR 30.9. The NRC acknowledges that Schlumberger does not concede that any violations occurred.

On February 23, 2009, the Licensee consented to issuing this Order with the commitments, as described in Section V below. The Licensee 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, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 20 and 30 IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT LICENSE NO. 42-27055-01 IS MODIFIED AS FOLLOWS:

ENCLOSURE 1

1. Within 180 days of the effective date of this order, Schlumberger will develop and implement a program that requires well site supervisors to ensure licensed material is accounted for and secured at temporary job sites.
2. Within 180 days of the effective date of this order, Schlumberger will develop and implement a program that requires line managers to review security and accountability of licensed material assigned to their operating locations (base and temporary job sites).
3. Schlumberger's corporate radiation safety staff will conduct annual radiation safety audits at the Rock Springs, Wyoming, field station through calendar year 2010. This shall include audits of temporary job sites that will include, but not be limited to, compliance with security and transportation regulations associated with licensed radioactive material.
4. Within 180 days of the effective date of this order, Schlumberger will develop and implement a required annual training program that describes the requirements in 10 CFR 30.9 and 10 CFR 30.10 to employees using licensed material. This training is to include the potential consequences individuals may experience for violations of 10 CFR 30.10. This training will be included in Schlumberger's initial training program.

5. Within 90 days of the effective date of this order, Schlumberger will submit a license amendment request, for Materials License No. 42-27055-01, to incorporate the changes to its inventory procedure, to include the photographic inventory process.
6. Within 30 days of the effective date of this order, Schlumberger Technology Corporation must pay the civil penalty of \$3250 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.
7. Schlumberger shall continue the following actions:
  - “U.S. Compliance Audits” shall be conducted every 3 years at each field station by a corporate team of experts. These audits will include temporary job sites.
  - Annual self-assessments shall be conducted by site personnel. These self-assessments include the radiation safety program.
  - Schlumberger will maintain its pre-existing code of ethics, which includes a tiered approach on discipline.
  - Confirmation inventories of licensed radioactive material shall be conducted every 3 months.

- Third-party leak test analysis results shall be provided to the corporate radiation safety office for review.
- The enhanced security system shall remain in place at Schlumberger's Rock Springs, Wyoming, field station, provided that licensed material is used or stored therein.

The license, which is the subject of this order, is modified in accordance with the requirements of the order. As such, in the event of the transfer of Materials License No. 42-27055-01 held by Schlumberger Technology Corporation, by the virtue of the sale (of the facility or the license holder), merger, bankruptcy, agreement or otherwise, the requirements of this confirmatory order shall survive any such transfer and shall be binding on the new license holder.

The Regional Administrator, NRC Region IV, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and include a statement of good cause for the extension.

ENCLOSURE 1

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](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 Schlumberger Technology Corporation 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) and (f).

If the 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.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received. A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

*/RA/*

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Elmo E. Collins, Regional Administrator

Dated this 24<sup>th</sup> day of February 2009

ENCLOSURE 1