



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

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

July 23, 2009

EA-08-278

Mr. Charles Perkins
Site Manager
AREVA NP, Inc.
AREVA NP - RICHLAND
2101 Horn Rapids Road
Richland, WA 99352-0130

**SUBJECT: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY)
[NRC OFFICE OF INVESTIGATION REPORT NO. 2-2008-045]**

Dear Mr. Perkins:

The enclosed Confirmatory Order is being issued to AREVA NP – Richland, Inc. (AREVA), as a result of a successful alternative dispute resolution (ADR) session. The enclosed commitments were made by AREVA as part of a settlement agreement involving a security guard who falsified an access authorization form resulting in individuals being granted unescorted access to the site without proper authorization.

In a letter dated February 11, 2009, the Nuclear Regulatory Commission (NRC) provided AREVA the results of an investigation completed by the NRC's Office of Investigations (OI). The purpose of the investigation was to determine whether a security guard willfully falsified access authorization records. A Factual Summary of the OI investigation was enclosed with our letter, which documents the NRC's conclusion that on five separate occasions from January 2007 through March 2008, the security guard deliberately falsified a Site Access Authorization-Unescorted form by signing the name of an individual listed on the Authorization List. As a result, individuals were granted access to the site without proper authorization. These actions caused AREVA to be in violation of Procedure E09-01-004, Security Management Control Procedure - Security Badges, Materials License Number SNM-1227, and AREVA Fuel Fabrication Facility Physical Protection Plan for SNM for Low Strategic Significance, Revision 3.0.

In addition, our letter of February 11, 2009, offered AREVA 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 regarding whether violations occurred, the appropriate enforcement action, and the appropriate corrective actions.

In response, AREVA requested ADR in an attempt to resolve the issue. An ADR mediation session was held on June 2, 2009, and a preliminary settlement was reached. The elements of

the preliminary agreement were formulated and agreed upon at the mediation session and are documented in the enclosed Order.

As discussed in the enclosed Confirmatory Order, AREVA agreed to a number of corrective actions and enhancements related to its access authorization process, including communicating the underlying facts of the violation to all AREVA employees, as well as staff at other U.S. AREVA Special Nuclear Material licensed facilities within AREVA to emphasize lessons learned from this incident.

In consideration of the above commitments, the NRC agreed to refrain from proposing a civil penalty and issuing a Notice of Violation or other enforcement action for the matters discussed in the NRC's letter to AREVA of February 11, 2009 (EA-08-278), as well as for three additional examples in which the former security officer signed for the authorizing individual identified by AREVA during its review of this matter. We will evaluate the implementation of your commitments during future inspections.

We have enclosed a Confirmatory Order (Effective Immediately) to memorialize the commitments made as part of the settlement agreement. As evidenced by your signed "Consent and Hearing Waiver Form" (copy enclosed) dated July 8, 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 to me within 30 days at NRC Region II, ATTN: Regional Administrator, 61 Forsyth Street, SW Suite 23T85, Atlanta, Georgia 30303-8931.

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 the attached Confirmatory Order, on its website at www.nrc.gov; select Public Meetings and Involvement, then Enforcement. 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 the NRC's document system (ADAMS).

AREVA NP, Inc.

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If you have any questions or comments concerning this letter, please contact Mr. Kriss Kennedy, Director, Division of Reactor Safety, at 404-562-4601.

Sincerely,

/RA/

Luis A. Reyes
Regional Administrator

Docket No.: 70-1257
License No.: SNM-1227

Enclosures:

1. Confirmatory Order
2. Consent and Hearing Waiver Form

cc w/encls.:
Robert E. Link, Manager
Environmental, Health, Safety & Licensing
Areva NP, Inc.
2101 Horn Rapids Road
Richland, Washington 99352

Distribution w/encls:

W. Borchardt, OEDO
 M. Virgilio, OEDO
 B. Mallett, OEDO
 D. Dorman, NMSS
 C. Marco, OGC
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SIGNATURE	/RA/SES FOR	KMK		/RA/		
NAME	CEVANS	KKENNEDY		VMCCREE		
DATE	6/12/09	6/12/09		7/21/09		
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO
OFFICE	OGC	NSIR	OE			
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DATE	6/30/09	6/30/09	6/30/09			
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OFFICIAL RECORD COPY DOCUMENT NAME:

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

AREVA NP, Inc.
AREVA NP – Richland

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Docket No.: 70-1257
License No.: SNM-1227

EA-08-278

CONFIRMATORY ORDER
(EFFECTIVE IMMEDIATELY)

I

AREVA NP - Richland (AREVA or Licensee) is the holder of Operating License No. SNM-1227 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 70. The license in effect at the time of the incident described below was most recently amended via Amendment 49, issued on July 9, 2007. The NRC renewed Operating License No. SNM-1227, effective April 22, 2009. The license authorizes the operation of AREVA in accordance with the conditions specified therein. The facility is located on the Licensee's site in Richland, Washington.

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on June 2, 2009.

II

On September 12, 2008, the NRC's Office of Investigations (OI) completed an investigation (OI Case No. 2-2008-045) regarding activities at the AREVA facility located in Richland, Washington. Based on the evidence developed during the investigation, the NRC staff concluded that on five separate occasions from January 2007 through March 2008, a security guard deliberately falsified a Site Access Authorization-Unescorted form by signing the name of

an individual listed on the Authorization List. As a result, individuals were granted access to the site without proper authorization. These actions caused AREVA to be in violation of Procedure E09-01-004, Security Management Control Procedure - Security Badges, Materials License Number SNM-1227, and AREVA NP Inc., Richland, Washington Fuel Fabrication Facility Physical Protection Plan for SNM for Low Strategic Significance, Revision 3.0.

III

On June 2, 2009, the NRC and AREVA met in an ADR session mediated by a professional mediator, which was 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 or resolving any differences regarding their dispute. This confirmatory order is issued pursuant to the agreement reached during the ADR process. The elements of the agreement consist of the following:

1. The NRC and AREVA agreed that a security officer signed for (i.e., falsified) an authorizing individual on the Site Access Authorization - Unescorted form, instead of obtaining the signature of an individual listed on the Authorization List, as required by procedure. As a result, individuals were granted unescorted access to the site without proper authorization. These actions placed AREVA in violation of Procedure E09-01-004, Security Management Control Procedure - Security Badges, Materials License Number SNM-1227, and AREVA NP Inc., Richland, Washington Fuel Fabrication Facility Physical Protection Plan for SNM for Low Strategic Significance, Revision 3.0.
2. Based on its review and investigation, AREVA identified three additional examples in which the former security officer signed for an authorizing individual, thus allowing

individuals unescorted access to the site without proper authorization.

3. Based on AREVA's review of the incident and NRC concerns associated with precluding recurrence of the violation, AREVA completed the following corrective actions and enhancements:
 - a. Individuals who were granted unescorted access were confirmed to have met the criteria for access;
 - b. Confirmation that the violation was limited to the actions of the security officer in question;
 - c. Determination of extent of condition;
 - d. Prompt notification of AREVA senior management and onsite NRC personnel;
 - e. Disciplinary action as appropriate;
 - f. Conducted a causal analysis of the access authorization violation.
4. In addition to the actions completed by AREVA as discussed above, AREVA agreed to additional corrective actions and enhancements, as fully delineated below in Section V of the Confirmatory Order.
5. At the ADR session, the NRC and AREVA agreed that (1) the actions referenced in Section III.3 and Section V, would be incorporated into a Confirmatory Order, and (2) the resulting Confirmatory Order would be considered by the NRC for any assessment of AREVA, as appropriate.
6. In consideration of the completed corrective actions delineated in Section III.3 and the commitments delineated in Section V of this Confirmatory Order, the NRC agreed to refrain from proposing a civil penalty or issuing a Notice of Violation for all matters

discussed in the NRC's letter to AREVA of February 11, 2009 (EA-08-278), and the additional three examples discussed in Paragraph III.2 above.

7. This agreement is binding upon successors and assigns of AREVA NP, Inc. Richland, Washington.

On July 8, 2009, the Licensee consented to issuance of 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 completed the actions as delineated in Section III.3, and agreed to take the actions as set forth in Section V, 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.

Accordingly, pursuant to Sections 104b, 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 Part 70, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT LICENSE NO. SNM-1227 BE MODIFIED AS FOLLOWS:

- a. AREVA will maintain the practice of rotating security officers from post to post;
- b. AREVA will incorporate audits of the site access badging process into the site audit program.
- c. AREVA will incorporate lessons learned from this incident into new employee training, and annual refresher training for all AREVA Richland employees.
- d. AREVA will communicate lessons learned from this incident to all other U.S. AREVA SNM licensed facilities within AREVA NP Inc.
- e. AREVA will provide annual reinforcement regarding procedural requirements of site access authorization process to all AREVA NP Inc. – Richland security officers.
- f. AREVA will evaluate planned site access authorization software to assess potential enhancements to preclude or mitigate similar incidents.
- g. AREVA agrees to complete the above items within 12 months of issuance of the Confirmatory Order.
- h. Within three months of completion of the terms of the Confirmatory Order, AREVA will provide the NRC with a letter discussing its basis for concluding that the Order has been satisfied.

The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by AREVA 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.

If a person other than AREVA 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 CFR 2.309 (d) and (f).

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.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which became effective on October 15, 2007. The NRC E-filing Final Rule was issued on August 28, 2007 (72 Federal Register 49,139) and was codified in pertinent part at 10 CFR Part 2, Subpart B. 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, he/she 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 CFR 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.

VII

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/

Luis A. Reyes
Regional Administrator

Dated this 23rd day of July 2009

CONSENT AND HEARING WAIVER FORM

AREVA NP – Richland, Inc., hereby agrees to comply with the commitments described in this letter and agrees to incorporation of these commitments into a Confirmatory Order that will be immediately effective upon issuance. I recognize that by signing below, I, Charles Perkins, Site Manager, AREVA NP – Richland, Inc., consent to the issuance of the Confirmatory Order, effective immediately, with the commitments described in the NRC's draft Confirmatory Order attached and, by doing so, waive, pursuant to 10 CFR 2.202(a)(3) and (d), the right to request a hearing on all or any part of the Order.

 07/08/09
Charles Perkins Date
Site Manager
AREVA NP – Richland, Inc.