

November 13, 2009

CAL 3-08-005B

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

SUBJECT: CONFIRMATORY ACTION LETTER SECOND ADDENDUM

Dear Mr. Hackmann:

The U.S. Nuclear Regulatory Commission (NRC) Region III conducted an inspection between November 17, 2008 and June 24, 2009 at the Westinghouse Hematite decommissioning facility (Inspection Report No. 070-00036/08-002(DNMS)). In November 2008, the NRC was informed of previously unknown amounts of uranium-235 (U^{235}) enclosed in piping and High Efficiency Particulate Air (HEPA) filter units within the Process Building. A 24-hour report was subsequently submitted to the NRC on November 19, 2008 (Event Notification Report 44668), with a follow-up report on November 21, 2008. The two 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.

A Confirmatory Action Letter (CAL) (CAL 3-08-005) dated, December 15, 2008, was issued in response to the quantity of U^{235} found at the Westinghouse Hematite decommissioning facility. On July 9, 2009, an addendum to the December 15, 2008 CAL (CAL 3-08-005A) was issued following NRC's letter dated June 22, 2009, which granted Westinghouse an exemption from the requirements for criticality monitoring system required by 10 CFR 70.24(a) and approved Westinghouse to conduct further characterization of the process buildings.

The results of your characterization of the Process Building were submitted in the *Hematite Decommissioning Project Summary Report of the 2009 Process Building Characterization*, dated October 23, 2009. We have performed an initial review of the document and find it to be acceptable. The NRC has performed a review of the document and, pending the results of our confirmatory surveys to independently verify the methods and results, find it acceptable. Based on your submittal of this report, we are updating Items 5, 6 and 7 of the CAL.

The following is the current status of the issues delineated in the December 13, 2008 CAL, as updated by the July 9, 2009 CAL addendum:

- Item (1) Closed by letter dated July 9, 2009, and superseded by Item 6.
- Item (2) Closed by letter dated July 9, 2009.
- Item (3) Closed by letter dated July 9, 2009.

Item (4) Closed by letter dated July 9, 2009.

Item (5) Before any Process Building piping or equipment removal or demolition activities are conducted, discuss the methodology, including safety precautions with the NRC.

In response to the exemption request dated February 5, 2009, the NRC staff reviewed your plans to complete the characterization of the Process Building, including the Characterization Plan submitted by letter dated December 18, 2008, and information provided by telephone conversations. You stated that your controls would not allow any physical work to dismantle or remove any piping, equipment or ductwork from the buildings for the purpose of demolition. You also stated that in the event that cutting of piping or removing caps or flanges to provide access for visual inspection of the interior surfaces of contaminated equipment, piping and ventilation ducts was determined to be necessary then this would be discussed with the NRC prior to taking those actions. You also planned to conduct roof repairs and routine maintenance work.

The characterization of the Process Building has now been completed. The *Hematite Decommissioning Project Summary Report of the 2009 Process Building Characterization* was provided to the NRC dated October 23, 2009.

Authorization to remove piping or equipment or to conduct demolition activities would need to be addressed in a subsequent exemption request based on the results of the characterization. This item remains open.

- Item (6) Temporarily withdraw the "Stop Work Order" on all activities associated with the Process Building and allow entry to the Process Building subject to the following:
- a. Complete characterization activities as described in the Characterization Plan submitted by letter dated December 18, 2008. The NRC will be kept informed of scheduled characterization activities so that NRC inspectors can be present to observe activities, as determined by the NRC.
 - b. The internals of the Process Building must remain in their present state.
 - c. The use of thermo-luminescent dosimeters (TLDs) and electronic dosimeters, as discussed in the Characterization Plan submitted by letter dated December 18, 2008, are at your discretion and based on current plant procedures. The use of dosimetry was not considered a condition of the exemption to 10 CFR 70.24(a) approved by letter dated June 22, 2009.
 - d. Reinstate the Stop Work Order following completion of items a and b.

The characterization of the Process Building was completed. The *Hematite Decommissioning Project Summary Report of the 2009 Process Building Characterization* was provided to the NRC dated October 23, 2009, and the Stop Work Order was reinstated on the Process Building. This item is closed.

- Item (7) After assessing the results of the additional characterization surveys, and prior to regaining access to the Process Building, provide the NRC with one of following:
- a. A request for an exemption from 10 CFR Part 70.24(a) demonstrating that accidental criticality alarms are not required; or
 - b. Description of plans to re-install an accidental criticality alarm capability.

Although this item has not been addressed it is being closed and re-addressed in the new Item 8 below.

Based on a telephone call between you and Christine Lipa of the NRC, and other members of your staff and the NRC, on November 12, 2009, and in consideration of the information provided in the *Hematite Decommissioning Project Summary Report of the 2009 Process Building Characterization*, it is our understanding that you will take the following additional action:

- Item (8) Request an exemption from 10 CFR Part 70.24(a) demonstrating that accidental criticality alarms are not required, or provide a description of plans to re-install an accidental criticality alarm capability.

Until such time that an exemption from 10 CFR Part 70.24(a) has been issued by the NRC, or an accidental criticality alarm capability has been installed and approved by the NRC, a Stop Work Order will be maintained for the Process Building except to allow entry to conduct the following activities:

- a. Conduct radiological surveys and safety inspections;
- b. Conduct required environmental sampling, including sampling existing wells;
- c. Perform routine maintenance work in the building and on the roof to the extent necessary to maintain the integrity of the facility and ensure the safety of workers; and
- d. If required, install an accidental criticality monitoring system.

This Confirmatory Action Letter will continue in effect until the NRC has confirmed that you are in compliance with your license requirements for the Process Building. This Confirmatory Action Letter may be modified pending the outcome of the additional characterization surveys of the Process Building. 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 Publicly Available Records (PARS) component of the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Website 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 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/

Mark A. Satorius
Regional Administrator

Docket No. 070-00036

License No. SNM-33

cc w/encl: C. Eaton, Community Involvement
Coordinator, The Joachim Watershed
Community Advisory Group
E. Gilstrap, Project Manager, MDNR
J. McHugh, Office of The Honorable Russ Carnahan
P. Lamping, Jefferson County Council Board
of Executives
C. Banks, Jefferson County Council Board
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E. Kemp, Jefferson County Council Board
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M. Templeton, Director, MDNR
D. Buntin, Director, Intergovernmental Cooperation, MDNR

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Letter to E. Kurt Hackmann from Mark A. Satorius dated November 13, 2009.

SUBJ: CONFIRMATORY ACTION LETTER SECOND ADDENDUM

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