

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	Docket No. 030-20836
)	
Mattingly Testing Services, Inc.)	License No. 25-21479-01
Molt, Montana)	EA-10-100

ORDER REVOKING LICENSE
(EFFECTIVE IMMEDIATELY)

[NRC -2009-0119]

I

Mattingly Testing Services, Inc., (Mattingly or licensee) is the holder of Materials License 25-21479-01 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 34, last amended on May 28, 2010, to change the facility's permanent storage location and to name a new radiation safety officer, and due to expire on February 28, 2016. The license authorizes Mattingly to possess and use byproduct material for industrial radiography operations in NRC jurisdiction, and in areas of exclusive Federal jurisdiction within Agreement States. The license currently authorizes storage at licensee facilities in Molt and Billings, Montana. The license further authorizes the possession of natural or depleted uranium, as solid metal, for shielding in radiography equipment. On the same date this Order (EA-10-100) is issued to Mattingly, the NRC is also issuing Mr. Mark Ficek, President of Mattingly, an Order Prohibiting Involvement in NRC-Licensed Activities (IA-10-028).

Currently, both Mattingly (EA-08-271) and its president (IA-08-028) are subject to Confirmatory Orders issued on March 6, 2009, which resulted from alternative dispute resolution

(ADR) mediation sessions conducted on February 5, 2009. Those Orders were made immediately effective upon issuance. The ADR mediation session and resultant Confirmatory Orders dispositioned nine violations, five of which were willful, identified during an NRC inspection and an investigation by the NRC's Office of Investigations. The 2008 investigation identified several violations: (1) a failure to provide complete and accurate information to the NRC; (2) a radiographer assistant performing radiographic operations without a dosimeter; (3) a radiographer assistant using a radiographic exposure device without supervision of a radiographer; (4) failure to secure a radiographic exposure device with a minimum of two independent physical controls; (5) failure to remove a radiographic exposure device from service after it had sustained damage to the locking mechanism; (6) failure to notify the NRC after discovery of damage to a radiography device; (7) an individual acting as a radiographer assistant without completing a practical examination on use of the radiography equipment; (8) failure to ensure that all personnel dosimeters were checked for proper response to radiation every 12 months; and, (9) failure to have a functional alarm system to allow the licensee to monitor, detect, assess, and respond to unauthorized access to radioactive material when the radioactive material is not under direct observation by Mattingly staff and stored in a portable darkroom, as required by Increased Controls Order (EA-05-090). The NRC also found that willfulness was involved in violations 1, 3, 5, 7, and 8, above.

The NRC offered ADR to Mattingly and its president in order to disposition the violations listed above. As a result of ADR, the NRC issued separate confirmatory orders to Mattingly and Mr. Ficek. The Confirmatory Order (EA-08-271) to Mattingly required, among other things, that Mattingly retain an expert consultant, to be approved by the NRC, and that the consultant would take specific actions within strict deadlines. The Confirmatory Order required the Mattingly

expert consultant to: (1) evaluate the effectiveness of Mattingly's radiation safety and compliance programs by commencing an assessment of Mattingly's radiation safety program within 30 days of NRC's approval of the consultant; by reviewing Mattingly's training program and recommending improvements; by reviewing Mattingly's operating and emergency procedures and recommending improvements; by providing a report of the consultant's findings and recommended improvements to both the licensee and NRC; by performing an annual audit of Mattingly's radiation safety program through calendar year 2012; and by performing semi-annual field audits of radiography performance at temporary jobsites; and (2) provide training to the Mattingly staff who engage in licensed activities, including: a review of radiation mishaps involving radiography; a review of the consequences of and potential actions that NRC may take against an individual for deliberate violations; a review of NRC requirements and Mattingly's license conditions; a review of Mattingly's operating and emergency procedures; lessons-learned from the circumstances surrounding each of the violations identified by the NRC in its December 15, 2008, letter; reporting requirements of 10 CFR 30.50 and 10 CFR 34.101; and, NRC's employee protection requirements in 10 CFR 30.7. The expert consultant was approved by the NRC on April 3, 2009 (ADAMS Accession No. ML090930661). As a result, the Order required Mattingly to begin the radiation safety procedure assessment and complete the radiation safety training for Mattingly staff by May 3, 2009. The Confirmatory Order (EA-08-271) also required Mattingly, within 30 days of the date of the Order, to submit a license amendment incorporating updated procedures in a number of areas. The deadline for this requirement was April 5, 2009.

II

On June 30, 2009, the NRC inspected the Licensee's facility in Molt, Montana, after the NRC, Region IV received a police report stating that the County Sheriff's office had recovered, from a member of the public, a radiographic exposure device Mattingly had lost. The NRC-initiated investigations and inspections identified several violations of regulatory requirements, four of which involved deliberate misconduct by Mattingly's president, including providing false information to the NRC. Since the 2009 Confirmatory Orders, the NRC has determined that Mattingly has violated several NRC regulations and orders:

- (1) Mattingly's president deliberately put Mattingly in violation of Confirmatory Order (EA-08-271). Specifically, the Confirmatory Order required Mattingly to select an independent consultant to review Mattingly's radiation safety program and to conduct training for Mattingly's staff. The NRC approved the independent consultant on April 3, 2009, which set May 3, 2009, as the date by which the consultant was to commence the assessment of the Mattingly radiation safety program, as well as complete the specified training for Mattingly staff. Testimony provided by the independent consultant to the NRC investigator on June 30, 2009, revealed that the consultant was not aware of the May 3, 2009 deadline. The consultant indicated that the president had directed him to complete his actions by the end of 2009, but he did not at that time have a specific plan to do so, nor was he aware of the deadlines for other actions assigned to the independent consultant in the Confirmatory Order. Moreover, testimony provided by the president and the consultant to the NRC investigator revealed that the president did not give the consultant a copy of the Confirmatory Order that described the required actions

and respective deadlines. The president knew the Confirmatory Order's requirements, but rather than sharing the Confirmatory Order with the consultant or another Mattingly official to ensure compliance, he withheld the information and allowed the Confirmatory Order's deadlines to pass, putting Mattingly in violation of the Confirmatory Order (EA-08-271). The NRC showed the consultant the Confirmatory Order for the first time during the NRC investigation. If the NRC had not interdicted at that time, then implementation of required improvements to the Licensee's radiation safety program and safety training programs would have been even further delayed, if completed at all. The assessment of the Mattingly radiation programs was not begun until May 30, 2009, and the initial safety training of the Mattingly staff was not completed until July 19, 2009.

The NRC identified several additional examples of the licensee's failure to adhere to the Order, including: (i) the consultant's report and recommendations for program improvements were provided 65 days after the consultant completed the required reviews, contrary to the specified requirement of 30 days; (ii) the consultant failed to provide a copy of his calendar year 2009 annual audit results to the NRC, as specified; (iii) the consultant conducted the initial field audit of radiography at temporary jobsites on August 29, 2009, almost 3 months after the May 3, 2009 deadline; and, (iv) the licensee submitted an amendment request on June 30, 2009 instead of May 3, 2009, as required.

- (2) From May 13, 2006, through September 9, 2009, Mattingly, as a result of its president's deliberate inaction, failed to establish and maintain a prearranged plan with the local law enforcement agency to respond to any attempt to gain unauthorized access to radioactive materials, as required by Increased Controls Order (EA-05-090).

Specifically, Increased Controls Order, Attachment B, Section IC-2(b), requires that the licensee shall have a prearranged plan with a local law enforcement agency for assistance in response to an actual or attempted theft, sabotage, or diversion of such radioactive material or of the devices, which is consistent in scope and timing with a realistic potential vulnerability of the sources containing such radioactive material.

During an NRC inspection of the Mattingly facility in March 2007, the president informed the NRC inspector that he had established a prearranged plan with the Laurel Police Department, when in fact he had not established a prearranged plan with the Laurel Police Department, and in any event, Mattingly's facility was not located in the Laurel Police Department's jurisdiction. Upon further investigation the NRC determined that Mattingly's facility was in the Yellowstone County Sheriff's jurisdiction, and Mattingly had not established a prearranged plan with the Yellowstone County Sheriff's Office. The president's false statement to the NRC inspector—which made clear that the president was aware of the requirement, but had not implemented it—caused the NRC to find that the failure to meet the Increased Controls Order, Appendix B, Section IC-2(b), was deliberate.

- (3) On March 6, 2007, Mattingly's president deliberately provided false information to an NRC inspector by stating that he had established a prearranged plan with the local law enforcement agency in accordance with Increased Controls Order (EA-05-090), violating 10 CFR 30.10(a)(2), and putting Mattingly in violation of 10 CFR 30.9, "Completeness and Accuracy of Information." As described above, the president stated to an NRC inspector that the prearranged plan had been established with the Laurel Police Department in Laurel, Montana. The NRC determined that neither the president nor any

Mattingly official had contacted the Laurel Police Department to establish a prearranged response plan. The NRC also determined during its 2009 investigation that the Laurel Police Department had no jurisdiction for the Mattingly facility in Molt, Montana. Further, testimony by a representative of the appropriate local law enforcement agency (Yellowstone County Sheriff's Office) revealed that no prearranged plan had been established with them, or had been sought by the president or any other Mattingly officials. The president's false statement to the NRC inspector was a significant contributor to the duration of the Increased Controls Order violation since Mattingly did not implement the local law enforcement plan until September 9, 2009, more than 2 years after the NRC inspector initially questioned the Licensee's actions to establish the prearranged plan, and only after an NRC investigation revealed the violation.

- (4) On October 22, 2009, while under oath, Mattingly's president deliberately provided false testimony to the NRC investigator, again violating 10 CFR 30.10(a)(2) and putting Mattingly in violation of 10 CFR 30.9, "Completeness and Accuracy of Information." The president claimed that two witnesses could confirm that he had conversations during a lunch engagement with the Laurel Police Chief regarding the required local law enforcement agency prearranged plan. Testimony provided by witnesses to the lunch engagement, including the Laurel Police Chief, refuted the president's statements. Further, in addition to testimony that the Laurel Police Chief recalled no discussion of a response plan, and that he knew that the Laurel Police Department had no jurisdiction to respond to the Mattingly facility, the Laurel Police Chief offered evidence that the lunch engagement at issue took place on July 13, 2003, some 28 months before the Increased Controls Order was issued to Mattingly. Therefore, the NRC found that the president

deliberately provided false testimony while under oath when he attempted to cite a lunch engagement with the Laurel Police Chief in 2003 to demonstrate to the NRC that Mattingly was in compliance with the Increased Controls Order.

- (5) On July 4, 16, and August 29-30, 2009, Mattingly failed to implement the Increased Controls Order (EA-05-090), Appendix B, Section IC-2(c), requirement to have a dependable means to transmit information between and among, the various components used to detect and identify an unauthorized intrusion, to inform the assessor, and to summon the appropriate responder at all times. Specifically, on the dates noted, a radiographic exposure device was left in one of Mattingly's trucks at a radiographer's residence, while the radiographer left the premises in another vehicle. Mattingly directed the radiographer to drive the truck between the temporary job site and his residence and depended on the radiographer to respond appropriately to any intrusion. While he was away from his residence, however, there was no dependable means in place to comply with Increased Controls Order (EA-05-090), Appendix B, Section IC-2(c).

While this violation involved different circumstances, the inability to assess and respond to unauthorized access to the radioactive materials while stored in the transport vehicle, is similar to one of the violations resolved through the 2009 ADR mediation session.

- (6) On June 22, 2009, Mattingly staff failed to properly secure a radiographic exposure device for transport, contrary to 10 CFR 20.1802, 10 CFR 34.35(d), and 10 CFR 71.5. Specifically, Mattingly's RSO placed a radiographic exposure device on the back of the Mattingly truck, but failed to physically secure the device with proper blocking and

bracing to prevent loss during transport. The device was left on the tailgate of the vehicle with no means of security.

As a result of the failure to properly secure the radiographic exposure device for transport, the device fell off the vehicle on a public road in Molt, Montana, between the licensee's facility and a job site, and was lost in the public domain. The device was found by a member of the public who picked the device up, placed it in his truck, drove to a neighbor's house, and then contacted a local deputy sheriff . While this violation involved a different security requirement, the failure to physically secure the radiographic exposure device is similar to one of the violations resolved during the 2009 ADR mediation session.

- (7) On June 22, 2009, Mattingly's president willfully caused Mattingly to violate the immediate reporting requirement for lost radioactive materials, 10 CFR 20.2201, for the lost device described in violation (6). Specifically, after the device was returned to Mattingly by the local police, the licensee president and the RSO discussed the reporting aspects of the event. the president sent the RSO to a job site and said that he, the president, would research the reporting requirements for the lost device. The president stated to NRC investigators that he believed there was either a 24-hour or 30-day reporting requirement, but he did not research the requirement within 24 hours to determine the appropriate reporting requirement. If he had performed the research, then he would have known that Mattingly needed to report the lost device to the NRC as soon as it was lost.

The next day, June 23, 2009, the Yellowstone County Sheriff's Office provided the NRC's Region IV office with the police report of the lost device, which was how the NRC became aware of the loss. The Region IV staff was unsuccessful in its attempt to contact Mattingly's RSO on the afternoon of June 23, 2009, and left a message for him to contact Region IV. Mattingly's RSO returned the telephone call after work hours on June 23 and left a message. Region IV staff members spoke with Mattingly's RSO on the morning of June 24, 2009, and informed the RSO that the loss of the device should have been immediately reported on June 22, 2009. Subsequently, the licensee made the lost device event report to the NRC Operations Center on June 24, 2009. While this event involves a different reporting requirement, the failure to notify the NRC of the loss of radioactive material is similar to the reporting requirement violation dispositioned during the 2009 ADR mediation session.

III

Mattingly has violated NRC requirements, including deliberate and willful violations by the Mattingly president and owner who also provided material false information to an NRC inspector and investigators. These violations jeopardized its workers and the public health and safety, and the security of the radioactive materials that the licensee possesses, and represent a significant regulatory concern. The deliberate violations also demonstrate that Mattingly's president and owner is unwilling to comply with the Commission's requirements to protect the public health and safety and provide for the security of the radioactive materials in Mattingly's possession. These deliberate violations resulted in the NRC issuing an individual order to the president prohibiting his involvement in NRC-licensed activities for a period of 7 years.

The numerous failures to implement the requirements of Confirmatory Order (EA-08-271) as specified herein are of concern, since those actions were meant to timely correct a number of safety violations identified at Mattingly. The repetitive nature of several of these violations reveals the ineffectiveness of the corrective actions Mattingly committed to implement. The NRC must have reasonable assurance that its licensees will operate safely and comply with NRC requirements. The deliberate nature of the violations, including the material false statements made by the president, demonstrate that the NRC's past enforcement action was inadequate to ensure that Mattingly would comply with NRC requirements, and that Mattingly is unwilling to comply with NRC requirements.

Consequently, I lack reasonable assurance that Mattingly will provide for the safe use and security of the radioactive materials in its possession or that the public health and safety is adequately protected by continuing activities under the existing license. If, at the time the license was issued, the NRC had known of the licensee's inability or unwillingness to control licensed activities in accordance with the NRC's requirements, or the questionable integrity of the licensee's president, the license would not have been issued. Therefore, I have determined that permitting this licensee to conduct activities under License 25-21479-01 would be contrary to the public health and safety and that this license should be revoked. Mattingly's license authorizes possession of radioactive materials that are considered high-risk, the loss of control of which, whether inadvertent or through a deliberate act, has a potential to result in significant adverse health impacts and could reasonably constitute a threat to the public health and safety. Also, because of the risk to the public health and safety and the deliberate and willful violations, I have determined, pursuant to 10 CFR 2.202(a)(5), that the public health and safety requires an immediate suspension of radiographic operations, that the radioactive material in the licensee's

possession must be returned to the manufacturer or transferred to another entity authorized to possess the material, and that the licensee shall only provide for the safe, secure storage of the materials and other activities necessary to support safe transfer of said materials pending license revocation.

IV

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 30 and 34, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT LICENSE 25-21479-01 IS MODIFIED AS FOLLOWS:

1. All radiographic operations authorized by License 25-21479-01 involving the use of licensed material are hereby suspended pending further action described below, including use of License 25-21479-01 to conduct radiographic operations under reciprocity in any Agreement State. All other requirements of the license remain in effect including the actions required by Confirmatory Order (EA-08-271) and other orders issued to the licensee, including the Increased Controls Order (EA-05-090), as long as the licensee is in possession of NRC-licensed material.
2. The licensee shall provide to Mr. Art Howell, Director, Division of Nuclear Materials Safety, NRC Region IV, Arlington, Texas by the close of business on the date of this Order, a detailed inventory identifying the manufacturer, model, and serial number of

each radiographic exposure device, including the source activity for each device, and the current location of each device.

3. All NRC-licensed material in the licensee's possession shall be placed in secure storage at the licensee's Billings, Montana facility as soon as practicable, but no later than 48 hours after Mattingly's receipt of this Order.
4. The licensee shall remove from its possession all NRC-licensed material acquired or possessed under the authority of License 25-21479-01 within 30 days of the date of this Order, either by transferring the material to the manufacturer or to another entity authorized to possess that material.
5. Any sources that have not been leak tested within six months prior to the transfer shall be leak tested by a person authorized to do so, prior to transfer of the source.
6. The licensee shall notify Mr. Art Howell, Director, Division of Nuclear Materials Safety, NRC Region IV, Arlington, Texas, by telephone (817-860-8106) at least 5 business days prior to the date the radioactive materials are to be transferred so that the NRC may, if it elects, observe the transfer of the material.
7. The licensee shall, within 5 days after transfer of the material, certify in writing, under oath or affirmation, to the Regional Administrator, NRC Region IV, (Texas Health Resources Tower, 612 E. Lamar Blvd., Suite 400, Arlington, Texas 76011-4125), that all

material has been properly transferred and provide the Regional Administrator copies of transfer records required by 10 CFR 30.51.

IT IS FURTHER ORDERED THAT:

8. Following NRC confirmation of the transfer of all NRC-licensed material currently possessed, as discussed above, License 25-21479-01 is revoked.

The Regional Administrator, Region IV, or designee, may, in writing, at any time prior to final agency action sustaining the revocation of License 25-21479-01, relax or rescind any of the above conditions upon demonstration by the licensee, in writing and under oath or affirmation, of good cause.

V

In accordance with 10 CFR 2.202, the licensee must, and any other person adversely affected by this Order may, submit an answer to this Order within 20 days of its issuance. In addition, the licensee and any other person adversely affected by this Order may request a hearing on this Order within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to answer or 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 hearing is requested by a licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. Pursuant to 10 CFR 2.202(c)(2)(i), the licensee or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at (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 proceeding in which it is participating; and

(2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, web-based submission form. In order to serve documents through the Electronic Information Exchange, users will be required to install a web browser plug-in from the NRC web site. Further information on the web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions

should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing 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 E-Filing 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 documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at MSHD.Resource@nrc.gov, or by a toll-free call at (866) 672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, 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. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

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, or the 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, unless an NRC regulation or other law requires submission of such information. 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 submission.

If a person other than the licensee 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).

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 IV above shall be final 20 days from the date of this Order. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

Dated at Rockville, Maryland, This 2nd day of September 2010

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Roy P. Zimmerman, Director
Office of Enforcement