



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
245 PEACHTREE CENTER AVENUE, SUITE 1200
ATLANTA, GEORGIA 30303-1257

November 16, 2010

EA-10-076

Mr. David B. Amerine
President
Nuclear Fuel Services, Inc.
P. O. Box 337, MS 123
Erwin, TN 37650

SUBJECT: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY)
[NRC OFFICE OF INVESTIGATION REPORT NO. 2-2010-001]

Dear Mr. Amerine:

The enclosed Confirmatory Order (Effective Immediately) is being issued to Nuclear Fuel Services, Inc. (NFS) as a result of a successful alternative dispute resolution (ADR) session. The enclosed commitments were made by NFS as part of a settlement agreement for two examples of an apparent violation of Title 10 of the *Code of Federal Regulations* (10 CFR) 70.9(a), involving the submittal of incomplete or inaccurate information.

In a letter dated July 20, 2010, the Nuclear Regulatory Commission (NRC) provided NFS the results of an investigation completed by the NRC's Office of Investigations (OI). The purpose of the investigation was to determine whether a former Industrial Safety Specialist at NFS willfully provided the NRC incomplete and inaccurate information concerning fire damper inspections. A Factual Summary of the OI investigation was enclosed with our letter, which documented the NRC's conclusion that (1) on November 25, 2008, NFS submitted to the NRC a Reply to a Notice of Violation that was not complete and accurate in all material respects; and (2) during the NRC's August 2009 inspection, the former Industrial Safety Specialist at NFS created and provided a document to the NRC that was not complete and accurate in all material respects. The NRC's letter of July 20, 2010, preliminarily concluded that both apparent violations were due to deliberate misconduct on the part of the former NFS employee.

In addition, our letter of July 20, 2010, offered NFS a choice to either: (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, NFS requested ADR in an attempt to resolve the issue. An ADR mediation session was held on October 4, 2010, 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 Confirmatory Order.

As fully discussed in the enclosed Confirmatory Order, NFS agreed to a number of actions, including, but not limited to: (1) submittal of a Reply to a Notice of Violation, which documents corrective actions and enhancements taken and planned in response to the violation; (2) an assessment of the effectiveness of its actions to assure the adequacy and accuracy of information submitted to the NRC, including continuous improvements to its processes and changes to its organizational structure; (3) development and implementation of an appropriate safety culture improvement plan to address the findings identified in the second Safety Culture Assessment report that was provided to the NRC on June 29, 2010; (4) integrated independent safety culture assessments to an accepted nuclear industry standard, using a variety of appropriate assessment tools, no later than June 2013, and at least every 24 months thereafter; and (5) an assessment of its current corrective action program against the requirements of NQA-1-2008, Part III, Subpart 3.1, "Non-Mandatory Appendix 16A-1." Based on this assessment, NFS will submit a license amendment within nine months of the date of issuance of the final Confirmatory Order, incorporating into the license a corrective action program that reflects the results of the assessment.

In consideration of the above, the NRC agreed to refrain from proposing a civil penalty for all matters discussed in the NRC's letter to NFS of July 20, 2010, and to cite a violation of 10 CFR 70.9(a) that will be included as an attachment to the Confirmatory Order.

Issuance of the enclosed Confirmatory Order supersedes the NRC's Confirmatory Order to NFS, dated February 21, 2007, and completes the Agency's enforcement action with respect to NFS regarding all matters discussed in the NRC's letter to NFS of July 20, 2010 (EA-10-076). The NRC will conduct subsequent reviews as warranted to confirm the completion of corrective actions and enhancements as documented in the Confirmatory Order.

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 November 15, 2010, 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 required to respond to the enclosed Confirmatory Order and its attached Notice of Violation (Notice). When preparing your response, you should follow the instructions specified in Section III.4.a of the Confirmatory Order and the instructions contained in its attached Notice. You may submit one response to satisfy both requirements.

In accordance with 10 CFR 2.390 of NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agency-Wide Document Access and Management System (ADAMS) on the Internet at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov; select What We Do, Enforcement, then Significant Enforcement Actions. 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.

D. Amerine

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If you have any questions or comments concerning this letter, please contact Mr. Anthony T. Gody, Director, Division of Fuel Facility Inspection, at 404-997-4700.

Sincerely,

/RA/

Victor M. McCree
Deputy Regional Administrator for Operations

Docket No. 70-143
License No. SNM-42

Enclosure: Confirmatory Order w/attached Notice of Violation

cc w/encl:
Timothy Lindstrom
Vice President, Operations
Nuclear Fuel Services, Inc.
Electronic Mail Distribution

Mark Elliott
Director, Quality, Safety and Safeguards Department
Nuclear Fuel Services, Inc.
Electronic Mail Distribution

Debra Shults
Director, TN Dept. of Environment & Conservation
Electronic Mail Distribution

X PUBLICLY AVAILABLE NON-PUBLICLY AVAILABLE SENSITIVE X NON-SENSITIVE

ADAMS: X Yes ACCESSION NUMBER: _____ X SUNSI REVIEW COMPLETE

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SIGNATURE	SES for 10/18		ATG 10/14				VM 10/20
NAME	CEvans		AGody				VMcCree
DATE	11/ /2010	11/ /2010	11/ /2010				
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO
OFFICE	OE	OGC	NMSS				
SIGNATURE	Email 11/9	Email 11/9	Email 11/8				
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DATE	11/ /2010	11/ /2010	11/ /2010	11/ /2010	11/ /2010	11/ /2010	11/ /2010
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

OFFICIAL RECORD COPY DOCUMENT NAME: G:\DNMSI\FFBI\ENFORCE\NFS\2010\NFS (EA-10-076) Cover Letter final.docx

Letter to David B. Amerine from Luis A. Reyes dated November 16, 2010

SUBJECT: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY)
[NRC OFFICE OF INVESTIGATION REPORT NO. 2-2010-001]

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