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December 6, 2010
GDP 10-0047

Ms. Cynthia A. Carpenter
Director, Office of Enforcement
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Paducah Gaseous Diffusion Plant (PGDP)
Docket Number 70-7001, Certificate No. GDP-1
Summary of Actions Taken in Response to NRC Order EA-06-140

Dear Ms. Carpenter:

The Nuclear Regulatory Commission's (NRC) letter of August 13, 2009 (See Reference), issued Confirmatory Order EA-06-140 to the United States Enrichment Corporation (USEC). The Confirmatory Order was a result of a successful alternative dispute resolution (ADR) session. Section V of the Confirmatory Order contains the commitments made by USEC consistent with agreements reached in the ADR session. Enclosure 1 of this letter provides a summary of actions taken for each of the commitments, and USEC's basis for considering them complete.

If you have any questions regarding this review, please contact Steve Toelle (301) 564-3250. There are no new commitments contained in this submittal.

Sincerely,

Robert Van Namen

cc: T. Liu, NRC HQ
A. Gody, NRC Region II

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Reference: Letter from Cynthia A. Carpenter (NRC) to Robert Van Namen (USEC),
Confirmatory Order (EA-06-140), dated August 13, 2009.

Enclosure: Summary of Actions Taken in Response to NRC Order EA-06-140.

**Summary of Actions Taken in
Response to NRC Order EA-06-140**

I. INTRODUCTION

The Nuclear Regulatory Commission's letter of August 13, 2009, issued Confirmatory Order EA-06-140 to USEC. Section V of the Order requires USEC to meet five requirements as corrective actions resulting from a successful alternative dispute resolution (ADR) regarding an apparent violation of 10 CFR 76.7, "Employee Protection." The apparent violation was based on the United States Department of Labor (DOL) Administrative Review Board's (ARB's) August 19, 2008, Final Decision and Order (ARB Case Nos. 06-055, 06-058, 06-119) affirming a DOL Administrative Law Judge's (ALJ) findings of fact and conclusions. Previously, on January 27, 2006, the DOL ALJ issued a Proposed Decision and Order (ALJ Case No. 2004-ERA-001), concluding that USEC retaliated against a former quality control manager at Paducah in violation of Section 211 of the Energy Reorganization Act of 1974, as amended (the ERA). USEC denied that it violated the ERA and appealed the ARB decision to the United States Court of Appeals for the Sixth Circuit. NRC was concerned that, in the absence of appropriate management actions, the ARB decision may ultimately have a broader impact on Paducah's safety conscious work environment (SCWE). Accordingly, on January 9, 2009, NRC issued a letter to USEC offering the option of providing a written response to the apparent violation or requesting ADR. USEC selected the ADR process in which an agreement was reached that resulted in the issuance of Confirmatory Order EA-06-140. Section V of the Confirmatory Order contains five actions required by NRC to resolve the issue. The five actions are listed below, followed by USEC's basis for considering them complete.

1. **By no later than 180 calendar days after the issuance of the Confirmatory Order, USEC agrees to engage a third party to conduct an independent assessment of the SCWE at USEC's Paducah site. Through this assessment, the Certificatee will benchmark the effectiveness of the key elements of its SCWE initiatives; look at industry best practices; modify or further develop the SCWE program; and develop an assessment tool to periodically evaluate the effectiveness of USEC's Paducah SCWE program.**

Actions Taken by USEC

The Independent SCWE Assessment (ISA) was conducted by a team of five individuals with substantial experience in managing and/or regulating the activities of nuclear facilities, including experience in developing, implementing, and evaluating programs, procedures and policies to ensure a strong SCWE.

The ISA included a review of the effectiveness of USEC's SCWE initiatives, and benchmarked USEC's SCWE program and activities to industry best practices.

The ISA was structured to evaluate the "Four Pillars" of a healthy SCWE:

Pillar 1 – Willingness of Site Personnel to Raise Concerns Without Fear of Retaliation

Pillar 2 – Processes for Response to, and Correction of, Problems (primarily the Corrective Action Program (CAP))

Pillar 3 – Alternative Means for Raising Concerns (such as an Employee Concerns Program (ECP))

Pillar 4 – Detection and Prevention of Retaliation and Chilling Effects

Within each Pillar, the ISA Team evaluated PGDP programs, policies, and procedures, as well as the performance of the PGDP, and compared them to nuclear industry best practices.

Assessment Activities Performed

During the ISA, the Team conducted a variety of assessment activities, including:

- Reviewed programs, procedures, and policies related to SCWE
- Reviewed metrics, assessment reports, and inspection reports
- Reviewed SCWE commitments and actions
- Received presentations by PGDP management
- Observed selected site meetings
- Interviewed more than 160 PGDP personnel, including management, supervision, contractors, and working-level / frontline personnel from across the PGDP site organizations
- Reviewed selected plant events and management's response

Based upon these assessment activities, the ISA Team developed overall conclusions and results for each of the Four Pillars of SCWE. The Team also used these results as a basis for developing recommendations to preserve and improve the SCWE at PGDP. The recommendations included improvements/enhancements to further develop the SCWE program and development of an assessment tool to periodically evaluate the effectiveness of the SCWE program. A corrective action plan that addresses the recommendations was subsequently developed under Action #2 below.

A final report, "Report of the Independent Safety Conscious Work Environment Assessment," was issued on January 7, 2010. This action is therefore complete.

2. **Within 90 calendar days after completion of the assessment as referenced in paragraph (1) above, USEC shall make available to the NRC onsite:**
 - (a) **A description of the tools/methods used to conduct the assessment including any survey questions;**
 - (b) **The results of the assessment and USEC's analysis of the results; and,**
 - (c) **The proposed actions, if any, USEC will take to address the results of the assessment in order to ensure that a healthy SCWE exists at USEC's Paducah site.**

Actions Taken by USEC

The report issued under action 1 above, Report of the Independent Safety Conscious Work Environment Assessment, includes a description of the tools and methods used to conduct the assessment. Following issuance of the final report, USEC management reviewed the results and developed a corrective action plan to address the assessment recommendations. The corrective action plan was incorporated into the 2010 Business Plan as Initiative 6 – SCWE Program Enhancements, and entered into the Business Prioritization System (BPS). All documentation is available for NRC review onsite. This action is complete.

3. **No later than three years after the independent assessment performed in paragraph (1) above, USEC shall perform a second independent assessment of the SCWE at USEC's Paducah site to determine the effectiveness of the SCWE program.**

Actions Taken by USEC

The second independent assessment of SCWE at the Paducah site is scheduled in the plant Business Prioritization System database for January 21, 2013.

4. **By no later than 180 calendar days after the issuance of the Confirmatory Order, USEC agrees to develop, review and/or revise as appropriate, annual SCWE training (that includes case studies). USEC agrees to train the following management staff on SCWE principles within 15 months of the date of the Confirmatory Order and provide refresher training annually thereafter:**
 - (a) **USEC Headquarters personnel, to include employees designated in the Safety Analysis Report (SAR) as having safety responsibilities for the gaseous diffusion plants, and USEC Headquarters Operations personnel;**
 - (b) **American Centrifuge Plant (ACP) management;**

- (c) American Centrifuge Lead Cascade Facility (ACLCF) management;
- (d) Paducah Gaseous Diffusion Plant (Paducah) management;
- (e) Portsmouth Gaseous Diffusion Plant (Portsmouth) management; and
- (f) USEC's long-term contractor management who work at ACP, ACLCF, Paducah and Portsmouth facilities.

In addition, within three months of hire or promotion, new USEC managers at the entities identified in (a) through (e) above will receive initial SCWE training.

Actions Taken by USEC:

USEC developed and/or revised annual SCWE training, including case studies, and trained management staff specified in the Order on SCWE principles. Personnel that were not available to attend the training due to medical/military leave or new hires that reported to site since the training was conducted have been placed into the training tracking program and will receive the required training upon return to work, or as scheduled in accordance with plant procedures. Refresher training is scheduled annually and is tracked by the plant training database program.

In addition, the Human Resources hiring/promotional procedures and the training database programs have been revised to ensure new USEC managers will receive the required SCWE training within 90 days of hire or promotion.

Evidence of training completion is available for NRC review onsite. This action is complete.

5. **By no later than 180 calendar days after the issuance of the Confirmatory Order, USEC agrees to develop, review, and/or revise as appropriate, refresher SCWE training (that includes case studies) for non-management personnel. USEC agrees to train ACP, ACLCF, Paducah and Portsmouth plants' non-management employees, and USEC long-term contractors who work within the ACP, ACLCF, Paducah, and Portsmouth facilities on the topic of SCWE within 15 months of the date of the Confirmatory Order and provide refresher training every two years thereafter.**

Actions Taken by USEC:

USEC developed and/or revised annual SCWE training, including case studies, and trained non-management employees and USEC long-term contractors specified in the Order on SCWE principles. Personnel that were not available to attend the training due to medical/military leave or new hires that reported to site since the training was conducted have been placed into the training tracking program and will receive the required training upon return to work or as scheduled in accordance with plant procedures. Refresher training is scheduled every two years and is tracked by the plant training database program. Evidence of training completion is available for NRC review onsite. This action is complete.