



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
1600 EAST LAMAR BLVD  
ARLINGTON, TEXAS 76011-4511

October 11, 2012

EA-12-058

Jeff Morrow, President  
DBI, Inc.  
1909 Salt Creek Highway  
Casper, Wyoming 82601

SUBJECT: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY) (NRC INSPECTION REPORT 030-37817/2011-001 AND INVESTIGATION REPORT 4-2011-060)

Dear Mr. Morrow:

The U.S. Nuclear Regulatory Commission (NRC) is issuing the enclosed Confirmatory Order to DBI, Inc., as a result of an alternative dispute resolution session conducted on September 6, 2012. The enclosed commitments were made by DBI, Inc., as part of a settlement agreement between DBI, Inc., and the NRC that were associated with apparent violations discovered during an inspection and investigation into the use of industrial radiographic exposure devices in NRC jurisdiction.

By letter dated August 8, 2012, (ADAMS Accession ML12221A362), the NRC provided you with the results of an NRC inspection and an investigation conducted by the NRC's Office of Investigations, Region IV. The report identified four apparent violations that the NRC was considering for escalated enforcement action. The apparent violations included failures to: (1) conduct a survey when approaching the radiography camera and guide tube; (2) have at least one other qualified individual present while performing radiography; (3) supervise the assistant radiographer; and (4) provide complete and accurate information to the Commission.

Our August 8 letter also indicated that based on the evidence developed during the investigation, the NRC is concerned that willfulness was associated with the second, third, and fourth apparent violations listed above. A factual summary of the results of the investigation conducted by the Office of Investigations was enclosed with our August 8, 2012, letter.

In addition, our letter offered you a choice to either (1) attend a predecisional enforcement conference, or (2) request alternative dispute resolution with the NRC, in an attempt to resolve any disagreement on whether the violations occurred, the appropriate enforcement actions, and the appropriate corrective actions. In response to our letter, you requested alternative dispute resolution. An alternative dispute resolution mediation session was held on September 6, 2012, at which a preliminary settlement agreement was reached. The elements of the preliminary agreement were formulated and agreed to at the mediation session and are contained within the enclosed Confirmatory Order.

The enclosed Confirmatory Order (Effective Immediately) confirms the commitments made as part of the settlement agreement. As evidenced by your signed "Consent and Hearing Waiver Form," (Enclosure 2) dated October 3, 2012, you agreed to the issuance of this letter and Confirmatory Order.

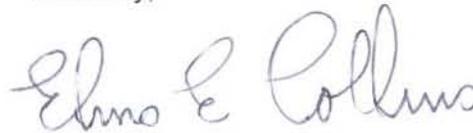
As indicated in the Confirmatory Order, DBI, Inc., has agreed to pay a civil penalty of \$3,500 in accordance with the conditions contained in the Confirmatory Order. Payment methods are described in NUREG/BR-0254, "Payment Methods" (Enclosure 3). Additionally, DBI, Inc., must submit a statement indicating when and by what method payment was made to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738.

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 Confirmatory Order shall be subject to criminal prosecution as set forth in that section. A violation of this Confirmatory 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 within 30 days to the U.S. Nuclear Regulatory Commission, Regional Administrator, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511. 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 you have any questions or comments concerning this letter, please contact Ms. Christi Maier at 817-200-1217.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," 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 Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's Web site at <http://www.nrc.gov/reading-rm/adams.html>. The Confirmatory Order will be published in the *Federal Register*. Further, the NRC will include this letter and the Confirmatory Order on its Enforcement Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

Sincerely,



Elmo E. Collins  
Regional Administrator

Docket: 030-37817  
License: 49-29301-01

Enclosures:

1. Confirmatory Order
2. Consent and Hearing Waiver Form
3. NUREG/BR-0254, "Payment Methods"

Jeff Morrow

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cc w/Enclosure 1:  
Pennie Frye, RSO  
DBI, Inc.  
1909 Salt Creek Highway  
Casper, Wyoming 82601

Scott W. Ramsay, RSO.  
Wyoming Office of Homeland Security  
5500 Bishop Blvd., Door 1  
Cheyenne, WY 82009

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of  
DBI, Inc.  
Casper, Wyoming

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Docket: 030-37817  
License: 49-29301-01  
EA-12-058

CONFIRMATORY ORDER MODIFYING LICENSE  
(EFFECTIVE IMMEDIATELY)

I

DBI, Inc. (DBI or Licensee), is the holder of License No. 49-29301-01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 34 on August 21, 2008. The license authorizes industrial radiographic operations at the licensee's site in Casper, Wyoming and at temporary jobsites, in accordance with conditions specified therein.

This Confirmatory Order (Order) is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on September 6, 2012, in Arlington, Texas.

II

From July 1, 2011, through July 17, 2012, the NRC conducted a safety and security inspection of the use of byproduct material for industrial radiographic operations conducted under DBI's NRC license. On July 25, 2011, the NRC Office of Investigations (OI), Region IV, began an investigation (OI Case No. 4-2011-060) to determine if the Licensee willfully failed to (1) provide a qualified radiographer to observe radiographic operations, and (2) to supervise a

Enclosure 1

radiographer's assistant while conducting radiographic operations. The investigation by OI was concluded on March 14, 2012. By letter dated August 8, 2012, the NRC transmitted the results of the inspection and the investigation in NRC Inspection Report 030-37817/2011-001 and Investigation Report 4-2011-060 (ML12221A362). Based on the results of the inspection and the evidence developed during the investigation, four apparent violations of NRC requirements were identified. The apparent violations involved the failure to: (1) conduct a survey when approaching the radiography camera and guide tube; (2) have at least one other qualified individual present while performing radiography; (3) supervise the assistant radiographer; and (4) provide complete and accurate information to the Commission. In addition, the NRC is concerned that willfulness may be associated with the apparent failures to have at least one other qualified individual present while performing radiography, supervise the assistant radiographer, and provide complete and accurate information to the Commission.

By letter dated August 8, 2012, the NRC informed DBI that the NRC was considering escalated enforcement for the apparent violations. The NRC offered DBI the opportunity to request (1) a predecisional enforcement conference, or (2) ADR. In response, on August 15, 2012, DBI requested ADR to resolve the matter with the NRC.

On September 6, 2012, the NRC and DBI representatives met in an ADR session mediated by a professional mediator, 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 on resolving any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

### III

In response to the NRC's offer, DBI, Inc., requested use of the NRC ADR process to resolve differences it had with the NRC. During that ADR session, a preliminary settlement agreement was reached. The elements of the agreement consisted of the following:

The NRC recognizes the corrective actions, associated with the apparent violations, that DBI, Inc., has implemented or plans to implement, which include:

- Retraining the radiographer and the radiographer's assistant prior to allowing them to conduct radiographic operations.
  
- Distribution of an e-mail to Operations Managers and Assistant Radiation Safety Officers (ARSO) concerning the safety violations. A verification sheet for recipients to sign and date, then return to the Corporate Radiation Safety Officer (RSO).
  
- Conducting an internal investigation to determine the root cause of the violations.
  
- Conducting unannounced field audits to help ensure that radiographers and assistant radiographers are implementing radiation safety requirements.
  
- Conducting extra (more than required by the NRC) periodic unannounced field audits.

- Permanently reassigning two individuals to serve as regional RSOs.
- Submitting for publication in an industry periodical, an article, from DBI's President documenting DBI's violations and the consequences for noncompliance.

During the ADR mediation session, an agreement in principle was reached in which DBI agreed to take the following additional actions:

A. DBI will enhance its training program for employees conducting radiographic operations (radiography or licensed activities). The goal of the changes is to conduct NRC-licensed activities safely and deter future deliberate violations by ensuring that employees, including company managers, understand the importance the NRC places on violations associated with deliberate misconduct and careless disregard. The program will consist of training for current employees conducting NRC-licensed activities and future employees conducting NRC-licensed activities. The program will also provide for annual refresher training. DBI will complete the following activities in support of the training program:

1. Training Requirements for Current Employees

- Within 30 days of the date of the Confirmatory Order, DBI will contract with an external contractor to develop training modules on the topics identified in Condition A.3 for its current employees, including company managers, who are engaged in NRC-licensed activities.

- At least 15 days before the time that DBI intends to execute the contract with the external contractor, DBI will submit, for NRC review and approval, the resume of the contractor recommended to develop the training modules.
- At least 15 days prior to the start of training, but no later than 30 days after executing the contract with the external training contractor, DBI will submit, for NRC review and approval, an outline of the topics to be covered during the training session(s). The training will include the topics identified in Condition A.3.
- The training for current employees will be conducted by the contractor and must be completed within 180 days of the NRC's approval of the outline of the course topics.
- DBI will assess the effectiveness of the training through written testing. Any employee that does not pass the test will receive remedial training, and will be retested within 15 days. Within 30 days of completing the training for all current employees, DBI will provide to the NRC: (1) a letter stating that the training as specified is complete, and (2) the results of the employee testing process. The letter will be sent to the NRC at: U.S. Nuclear Regulatory Commission, Region IV, Director, Division of Nuclear Materials Safety, 1600 East Lamar Blvd., Arlington, Texas 76011-4511.

2. Training for future employees and annual refresher training

Within 270 days of the date of the Confirmatory Order, DBI will submit to the NRC for review and approval, the training program and associated procedure(s) that describe the initial training which must be provided to future employees who will be conducting NRC-licensed activities and the annual refresher training that will be conducted for those employees who are performing NRC-licensed activities. The submittal to the NRC will include: (1) an outline of the topics to be covered during the initial training and the annual refresher training sessions, (2) any procedure(s) that provides guidance on how the training program is conducted, (3) the details of the testing that will be conducted to evaluate the effectiveness of the training, and (4) the minimum qualifications of the trainer. The topics to be covered must include the topics discussed in Condition A.3 below.

3. Training program requirements

The contractor identified in Condition A.1 will also make enhancements to DBI's training program. The contractor will modify the training procedures for current and future employees, and annual refresher training to include the following:

- For current and future employees involved in NRC-licensed activities, and annual refresher training, the elements of willfulness discussed in Chapter 6 of the NRC Enforcement Manual, including examples of willful violations (careless disregard

and deliberate misconduct), the fact that deliberate violations may be prosecuted criminally, the potential enforcement sanctions that the NRC may take against individuals who engage in deliberate misconduct (10 CFR 30.10), and examples of enforcement actions that the NRC has taken against individuals (publicly available on the NRC Web site).

- Training on how to conduct Cause Evaluations of radiography events and events involving significant violations. This training may be limited to DBI managers identified by the Licensee, who would be responsible for investigating and reviewing events and certain significant violations.
- For current and future employees involved in NRC-licensed activities, and annual refresher training, the requirements of 10 CFR 30.9, "Completeness and Accuracy of Information," and 10 CFR 30.7, "Employee Protection."
- For current and future employees involved in NRC-licensed activities, instruction on the importance of understanding and following DBI's internal procedures and the regulatory requirements associated with radiographic operations. This instruction must include a discussion of past radiography events that have resulted in overexposures to individuals and the health effects from these events. The instruction must show that DBI's internal procedures and the NRC's regulatory requirements are designed to prevent overexposures and the associated health effects.

- For current and future employees involved in NRC-licensed activities, a discussion on the NRC's Safety Culture Policy Statement, and DBI management's support of the policy. DBI will provide a copy of NUREG/BR-0500, "Safety Culture Policy Statement," (ADAMS Accession Number ML11165A021) to its employees.
- For all current and future employees involved in NRC-licensed activities, and annual refresher training, the requirements to: perform radiological surveys when approaching the radiography camera and the guide tube, as required by 10 CFR 34.49(b); have at least one other qualified individual present while performing radiography, as required by 10 CFR 34.41(a); and ensure that radiographers assistants are properly supervised while performing radiographic operations, as required by 10 CFR 34.46(c).

#### 4. Recordkeeping Requirements

DBI will maintain training records for 5 years. The records must include: the date of training, the name of the instructor, the attendees, and the test results. The records will be available for NRC review when requested.

B. Operating & Emergency procedures

Within 270 days of the date of the Confirmatory Order, DBI will develop and submit to the NRC, for review and approval, a request for a license amendment including the following procedures:

1. A procedure that details how DBI management and the corporate RSO will provide oversight of DBI field office(s), including unannounced field audits.
2. A procedure for conducting field audits of radiographic operations performed in NRC jurisdiction. In addition to the audit requirements in 10 CFR 34.43(e), every radiographer conducting NRC-licensed activities will be audited, at intervals not to exceed 24 months, by an individual independent of the field office being audited. Audits must, if possible, be unannounced; and must include a review to establish that assistant radiographers are properly supervised, at least one other qualified individual is present while performing radiography, and proper surveys are conducted when an individual approaches the radiographic camera and guide tube. Each individual involved in NRC-licensed activities must be audited at least three times per calendar year.
3. A procedure which describes DBI's cause evaluation program, (e.g. when and how to conduct cause evaluations, the various types of cause evaluations, training requirements for individuals performing cause evaluations, and how to document cause evaluations).

4. A procedure to ensure that audit records must be maintained for 5 years. The audit records will include the following information: the date of the audit, the name of the person conducting the audit, the name of individuals contacted by auditor, the audit findings, corrective actions, and follow-up (if any). The records will be available for NRC review when requested.
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- C. Within 30 days of the date of the Confirmatory Order, DBI will issue a company policy statement to its employees. The Policy Statement will provide DBI management's position on the importance of (1) maintaining security of licensed material, (2) the ethics of complying with regulatory requirements, (3) the awareness that deliberate violations are unacceptable, and (4) the need to ensure the primacy of safety over competing goals. DBI will provide a copy of its Policy Statement to the NRC at: U.S. Nuclear Regulatory Commission, Region IV, Director, Division of Nuclear Materials Safety, 1600 East Lamar Blvd., Arlington, Texas 76011-4511.
  - D. Within 30 days of the date of the Confirmatory Order, DBI must pay a civil penalty of \$3,500. DBI will pay the civil penalty in accordance with NUREG/BR-0254, "Payment Methods" and by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, a statement indicating when and by what method payment was made.

On October 3, 2012, DBI consented to issuing this Order with the commitments, as described in Section V below. DBI further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

#### IV

Since DBI, Inc. (DBI), has agreed to take additional actions to address NRC concerns, as set forth in Item III above, the NRC has concluded that its concerns can be resolved through issuance of this Confirmatory Order.

I find that DBI'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 DBI's commitments be confirmed by this Order. Based on the above and DBI's consent, this Confirmatory Order is immediately effective upon issuance.

#### V

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 20, 30, 34, and 150 IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

A. DBI will enhance its training program for employees conducting radiographic operations (radiography or licensed activities). The goal of the changes is to conduct NRC-licensed activities safely and deter future deliberate violations by ensuring that employees, including company managers, understand the importance the NRC places on violations associated with deliberate misconduct and careless disregard. The program will consist of training for current employees conducting NRC-licensed activities and future employees conducting NRC-licensed activities. The program will also provide for annual refresher training. DBI will complete the following activities in support of the training program:

1. Training Requirements for Current Employees

- a. Within 30 days of the date of the Confirmatory Order, DBI will contract with an external contractor to develop training modules on the topics identified in Condition A.3 for its current employees, including company managers, who are involved in NRC-licensed activities.
- b. At least 15 days before the time that DBI intends to execute the contract with the external contractor, DBI will submit, for NRC review and approval, the resume of the contractor recommended to develop the training modules.

- c. At least 15 days prior to the start of training, but no later than 30 days after executing the contract with the external training contractor, DBI will submit for NRC review and approval, an outline of the topics to be covered during the training session(s). The training will include the topics identified in Condition A.3.
- d. The training for current employees will be conducted by the contractor and must be completed within 180 days of the NRC's approval of the outline of the course topics.
- e. DBI will assess the effectiveness of the training through written testing. Any employee that does not pass the test will receive remedial training, and will be retested within 15 days. Within 30 days of completing the training for all current employees, DBI will provide to the NRC: (1) a letter stating that the training as specified is complete, and (2) the results of the employee testing process. The letter will be sent to the NRC at: U.S. Nuclear Regulatory Commission, Region IV, Director, Division of Nuclear Materials Safety, 1600 East Lamar Blvd., Arlington, Texas 76011-4511.

2. Training for future employees and annual refresher training

Within 270 days of the date of the Confirmatory Order, DBI will submit to the NRC for review and approval, a request for a license amendment including the training program and associated procedure(s) that describe the initial training which must be provided to future employees who will be conducting NRC-licensed activities and the

annual refresher training that will be conducted for those employees who are performing NRC-licensed activities. The submittal to the NRC will include: (1) an outline of the topics to be covered during the initial training and the annual refresher training sessions, (2) any procedure(s) that provides guidance on how the training program is conducted, (3) the details of the testing that will be conducted to evaluate the effectiveness of the training, and (4) the minimum qualifications of the trainer. The topics to be covered must include the topics discussed in Condition A.3 below.

### 3. Training program requirements

The contractor identified in Condition A.1 will also make enhancements to DBI's training program. The contractor will modify the training procedures to include the following:

- a. For current and future employees involved in NRC-licensed activities, initial and annual refresher training on the elements of willfulness discussed in the NRC Enforcement Manual, including examples of willful violations (careless disregard and deliberate misconduct), the fact that deliberate violations may be prosecuted criminally, the potential enforcement sanctions that the NRC may take against individuals who engage in deliberate misconduct (10 CFR 30.10), and examples of enforcement actions that the NRC has taken against individuals (publicly available on the NRC Web site).

- b. Training on how to conduct Cause Evaluations of radiography events and events involving significant violations. This training may be limited to DBI managers identified by the Licensee, who would be responsible for investigating and reviewing events and certain significant violations.
  
- c. For current and future employees involved in NRC-licensed activities, initial and annual refresher training on the requirements of 10 CFR 30.9, "Completeness and Accuracy of Information," and 10 CFR 30.7, "Employee Protection."
  
- d. For current and future employees involved in NRC-licensed activities, initial and annual refresher training on the importance of understanding and following DBI's internal procedures and the regulatory requirements associated with radiographic operations. This instruction must include a discussion of past radiography events that have resulted in overexposures to individuals and the health effects from these events. The instruction must show that DBI's internal procedures and the NRC's regulatory requirements are designed to prevent overexposures and the associated health effects.
  
- e. For current and future employees involved in NRC-licensed activities, initial and annual refresher training on the NRC's Safety Culture Policy Statement, and DBI management's support of the policy. DBI will provide a copy of NUREG/BR-0500, "Safety Culture Policy Statement," (ADAMS Accession Number ML11165A021) to its employees.

- f. For all current and future employees involved in NRC-licensed activities, initial and annual refresher training on the requirements to: perform radiological surveys when approaching the radiography camera and the guide tube, as required by 10 CFR 34.49(b); have at least one other qualified individual present while performing radiography as required by 10 CFR 34.41(a); and ensure that radiographers assistants are properly supervised while conducting radiographic operations, as required by 10 CFR 34.46(c).

#### 4. Recordkeeping Requirements

DBI must maintain training records for 5 years. The records must include: the date of training, the name of the instructor, the attendees, and the test results. The records will be available for NRC review when requested.

#### B. Revise Operating & Emergency procedures

Within 270 days of the date of the Confirmatory Order, DBI will develop and submit to the NRC, for review and approval, a request for a license amendment including the following procedures:

1. A procedure that details how DBI management and the corporate RSO will provide oversight of DBI field office(s), including unannounced field audits.

2. A procedure for conducting field audits of radiographic operations performed in NRC jurisdiction. In addition to the audit requirements in 10 CFR 34.43(e), every radiographer conducting NRC-licensed activities will be audited, at intervals not to exceed 24 months, by an individual independent of the field office being audited. Audits must, if possible, be unannounced; and must include a review to establish that assistant radiographers are properly supervised, at least one other qualified individual present while performing radiography, and proper surveys are conducted when an individual approaches the radiographic camera and guide tube. Each individual involved in NRC-licensed activities must be audited at least three times per calendar year.
  3. A procedure which describes DBI's cause evaluation program, (e.g. when and how to conduct cause evaluations, the various types of cause evaluations, training requirements for individuals performing cause evaluations, and how to document cause evaluations).
  4. A procedure to ensure that audit records must be maintained for 5 years. The audit records will include the following information: the date of the audit, the name of the person conducting the audit, the name of individuals contacted by auditor, the audit findings, the corrective actions, and the follow-up (if any). The records will be available for NRC review when requested.
- C. Within 30 days of the date of the Confirmatory Order, DBI will issue a company policy statement to its employees. The Policy Statement will provide DBI management's

position on the importance of (1) maintaining security of NRC-licensed material, (2) the ethics of complying with regulatory requirements, (3) the awareness that deliberate violations are unacceptable, and (4) the need to ensure the primacy of safety over competing goals. DBI will provide a copy of its Policy Statement to the NRC at: U.S. Nuclear Regulatory Commission, Region IV, Director, Division of Nuclear Materials Safety, 1600 East Lamar Blvd., Arlington, Texas 76011-4511.

- D. Within 30 days of the date of the Confirmatory Order, DBI must pay a civil penalty of \$3,500. DBI will pay the civil penalty in accordance with NUREG/BR-0254, "Payment Methods" and by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, a statement indicating when and by what method payment was made.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by DBI of good cause.

## VI

Any person adversely affected by this Confirmatory Order, other than DBI, may request a hearing within 20 days of its publication in the *Federal Register*. 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 made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

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](mailto: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 (EIE), 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](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.

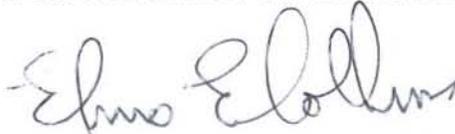
If a person (other than DBI) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

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.

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 this Confirmatory Order is published in the *Federal Register* 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

A handwritten signature in black ink, appearing to read "Elmo E. Collins". The signature is fluid and cursive, with the first name "Elmo" being particularly prominent.

Elmo E. Collins, Regional Administrator  
NRC Region IV

Dated this 11<sup>th</sup> day of October 2012

CONSENT AND HEARING WAIVER FORM

DBI, Inc., hereby agrees to comply with the terms and conditions of Confirmatory Order arising out of an alternative dispute resolution process to be issued relating to enforcement action EA-12-058. The Confirmatory Order will be immediately effective upon its issuance. By signing below, DBI, Inc., consents to the issuance of the referenced Confirmatory Order, effective immediately upon its issuance and, by doing so, agrees to waive the right to request a hearing on all or any part of the Confirmatory Order.

  
\_\_\_\_\_  
Jeff Morrow  
CEO and President  
DBI, Inc.

10-3-12  
Date