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USNRC

January 20, 1998  
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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

In the Matter of	)	
	)	Docket No. 030-30266
21st CENTURY TECHNOLOGIES, INC.	)	
	)	
(Albuquerque, New Mexico)	)	
	)	
	)	

JOINT MOTION FOR TERMINATION OF PROCEEDING

INTRODUCTION

Pursuant to 10 C.F.R. § 2.730 of the Commission's regulations, the staff of the Nuclear Regulatory Commission (Staff) and 21st Century Technologies, Inc. (Licensee) hereby move the Commission for termination of the instant proceeding in light of the Licensee's withdrawal of its request for a hearing on January 20, 1998.<sup>1</sup> The parties believe that for the reasons set forth below, good cause exists for termination of the proceeding.

BACKGROUND

On May 15, 1996, the Staff issued a "Notice of Violation and Proposed Imposition of Civil Penalty--\$7,500" (Notice of Violation) along with a "Confirmatory Order Modifying License (Effective Immediately)" (Confirmatory Order). 61 Fed. Reg. 25,694. The Confirmatory Order modified the license to require that the Licensee develop and submit for NRC approval a training plan, written procedures designed to maintain inventory and accountability of gun sights with

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<sup>1</sup> The reason for the withdrawal is that the Licensee has reached settlement with the NRC Staff in a related proceeding, as described below, and no longer desires to pursue the proceeding which is the subject of this motion.

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U.S. NUCLEAR REGULATORY COMMISSION  
RULEMAKING & REGULATIONS STAFF  
OFFICE OF REGULATORY AFFAIRS  
CITIZEN LIAISON

Enclosure

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*Corrections to page 2  
prepared by Catherine  
Mendenhall on 1/23/98*

sources authorized by the NRC, and an audit plan, along with the name and qualifications of an independent auditor. Confirmatory Order at 4-5; 61 Fed. Reg. 25,695. On June 14, 1996, the Licensee filed a "Request for Hearing" on the Confirmatory Order. The Licensee's Request for Hearing is pending before the Commission.<sup>2</sup> Also pending before the Commission is the "NRC Staff's Motion to Terminate Proceeding," dated December 12, 1996.

On April 10, 1997, the Staff issued an "Order Imposing Civil Monetary Penalty--\$2,500" (Order Imposing Penalty), following its consideration of the Licensee's answer to the Notice of Violation. 62 Fed. Reg. 19,816. On April 25, 1997, the Licensee filed a "Request for Enforcement Hearing," on the Order Imposing Penalty, and on June 23, 1997, an Atomic Safety and Licensing Board (Board) was established to preside in the civil penalty proceeding. 62 Fed. Reg. 34,718 (1997). On April 28, 1997, the Licensee filed "Licensee's Motion to Consolidate Proceedings," which is currently pending before the Commission.

On December 2, 1997, the parties filed a joint motion for approval of a settlement agreement that is currently pending before the Board. On January 20, 1998, the Licensee withdrew its hearing request that is pending before the Commission.

#### DISCUSSION

The Licensee withdrew its June 14, 1996, Request for Hearing on the Confirmatory Order. In light of the Licensee's withdrawal of its request for a hearing, good cause exists for the termination of the proceeding regarding the Confirmatory Order. The parties note that they have

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<sup>2</sup> In response to the Licensee's Request for Hearing, the Commission on June 26, 1996, issued an Order requiring the Licensee, among other things, to provide the bases for its contentions so that the Commission could make a determination of whether the Licensee is entitled to a hearing. See "Order," dated June 26, 1996, at 2-3.

- 3 -

reached a settlement agreement in the civil penalty proceeding pending before the Board, and that termination of the instant proceeding would resolve any remaining matters regarding the two orders. The parties recognize that the conditions set forth in the Confirmatory Order will remain in effect should the Commission terminate the proceeding. These conditions have been incorporated into the license by the issuance of an October 18, 1996, license amendment, terminating the license and the issuance, on the same date, of a superseding license, which contains the terms of the Confirmatory Order. See NRC Staff's Motion to Terminate Proceeding, dated December 12, 1996.

### CONCLUSION

For the reasons set forth above, the parties' joint motion to terminate the Confirmatory Order proceeding should be granted.

Respectfully submitted,

FOR 21ST CENTURY TECHNOLOGIES, INC.



James R. Tourtellotte  
Counsel for 21st Century Technologies, Inc.

FOR THE NRC STAFF



Catherine L. Marco  
Counsel for NRC staff

Dated this 20 th day of January, 1998

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NUCLEAR REGULATORY COMMISSION

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In the Matter of )  
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21st CENTURY TECHNOLOGIES, INC. ) Docket No. 030-30266  
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(Fort Worth, Texas) )  
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OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

CERTIFICATE OF SERVICE

I hereby certify that copies of "JOINT MOTION FOR TERMINATION OF PROCEEDING" in the above-captioned matter have been served on the following by deposit in the United States mail, first class, as indicated by asterisk or through deposit in the Nuclear Regulatory Commission's internal mail system this 21st day of January, 1997.

Office of the Secretary  
Attn.: Rulemakings and Adjudications  
Staff  
Mail Stop: 16-G-15 OWFN  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Office of the Commission Appellate  
Adjudication  
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Adjudicatory File (2)  
Atomic Safety and Licensing Board  
Mail Stop: T-3F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Atomic Safety and Licensing Board  
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