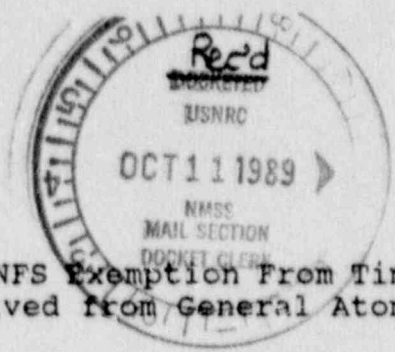


July 26, 1989  
696-1413

Mr. Donald J. Kasun, Acting Chief  
Domestic Safeguards and Regional  
Oversight Branch  
Division of Safeguards and  
Transportation, NMSS  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555



Subject: Docket 70-734: SNM-696; NFS Exemption From Timely  
Measurements of SNM Received from General Atomics

Dear Mr. Kasun:

This letter concerns a contractual problem that has arisen between General Atomics (GA) and Public Service Company of Colorado (PSC) as a result of the NRC granting Nuclear Fuel Services, Inc. (NFS) an exemption from a regulation. The exemption allowed NFS to accept shipments of SNM from GA and PSC without timely measurement following receipt. The background is as follows:

1. In a letter dated April 13, 1989, from Mr. K. D. Hensley, NFS evidently requested relief from the requirement to measure SNM upon receipt for material to be shipped to NFS from GA and PSC. GA has not seen the April 13, 1989, letter so we are speculating on the content based on the NRC's response.
2. In a letter dated May 5, 1989, the NRC granted NFS an exemption from the regulation (10 CFR 70.58) requiring measurement and evaluation of shipper/receiver differences for material shipped to NFS from GA and PSC. In effect, NFS would accept the SNM based on GA's measurements and there would be no "shipper/receiver" differences to reconcile.
3. PSC entered a contract with NFS in which NFS takes title to PSC's SNM (approximately 60 kg U shipped to NFS by GA and 220 kg U contained in unirradiated fuel stored at the Fort St. Vrain reactor which PSC will ship to NFS in a few years). We have been informed by PSC that the contract has no processing time limitations so the next SNM measurement will not be done until the material enters the process at some undefined future date. This processing could be many years away.

**FEE EXEMPT**

8910170098 890726  
PDR ADOCK 07000734 PDC  
C

~~07000734~~  
E50M

DFd3

4. In that the normal "shipping/receiver" measurement requirements had been bypassed and it will be several years before processing is to be performed, GA requested that PSC hold GA "harmless" from any actions taken by PSC or NFS resulting from SNM measurement differences occurring when the material was eventually processed.
5. PSC has refused to give GA the indemnity requested and has stated that: "While NFS will accept the WIP based on GA's measurements, PSC reserves the right of recourse against GA in the event of substantial differences between GA's uranium measurements and later measurements made by NFS when the material is processed."

This open-ended liability is not acceptable to GA. GA is currently ready and able to go through the normal verification of the SNM shipped to NFS. We cannot guarantee that we will have the personnel and corporate infrastructure in the future to adequately address any differences which are found in the measurements. Resolving differences some years from now would be difficult, if not impossible, and such an effort could be extremely expensive. The combination of PSC's refusal to grant indemnity to GA and the NRC's exemption to NFS has left GA with an uncapped responsibility which leaves the company in an untenable position. GA was placed in this position without its consent by the PSC/NFS contract and the approval by the NRC of a special exemption to the regulation requiring timely measurement by a receiver of SNM.

GA requests that the NRC withdraw the exception it granted to NFS and require NFS to immediately measure the material in accordance with the regulations. The material is in a measurable form and GA is willing to assist NFS, if requested, to formulate sampling techniques and measurements using qualified analysis techniques.

If action is taken currently on this issue, resolution of any measurement difference, or discovery of any difference between "book" and "real" values, will occur in a timely manner in accordance with the regulation that all licensees must follow. Further, GA will be able to address its responsibilities in the near term without facing potential future liabilities regarding this SNM.

We will appreciate your prompt attention to this matter, as it is an urgent concern to us. If you have any questions concerning this request, please contact me at (619) 455-2823 or Mr. Bob Noren at (619) 455-3217.

Very truly yours,

*Keith E. Asmussen*

Keith E. Asmussen, Manager  
Licensing, Safety and  
Nuclear Compliance

KEA/mk

DOCKET NO. 70-734  
CONTROL NO. 25997  
DATE OF DOC. July 26, 1989  
DATE RCVD. October 11, 1989  
FCUF \_\_\_\_\_ PJR   
FCAF \_\_\_\_\_ LPJR \_\_\_\_\_  
\_\_\_\_\_ L&E REF   
\_\_\_\_\_ SAFEGUARDS   
FCTC \_\_\_\_\_ OTHER \_\_\_\_\_  
DATE 10/11/89 INITIAL SAC