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UNITED STATES
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'94 JUN 22 P3:27

Before Administrative Judges:

Charles Bechhoefer, Chairman
Dr. Richard F. Cole
Dr. Jerry R. Kline

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)	
)	
NUCLEAR SUPPORT SERVICES, INC.)	
)	
EA 93-236: Order Requiring the)	
Removal of an Individual)	
From NRC Licensed or)	Docket Nos. EA 93-236
Regulated Activities and)	IA 94-003
Order Directing Review of)	
Personnel Security Files)	
(Effective Immediately))	
)	
ROBERT C. DAILEY)	June 21, 1994
)	
IA 94-003: Order Prohibiting)	
Involvement in Certain NRC-)	
Licensed or Regulated)	
Activities (Effective)	
Immediately))	
)	

NSSI'S NOTICE OF WITHDRAWAL OF
"MOTION TO SET ASIDE IMMEDIATE EFFECTIVENESS OF
PART IV.E OF NRC'S ORDER CAPTIONED EA 93-236"
AND PARTIAL WITHDRAWAL OF HEARING REQUEST

Nuclear Support Services, Inc. ("NSSI") and the Nuclear Regulatory Commission ("NRC") Staff have reached a Settlement Agreement with regard to Part IV.B of the order captioned "EA 93-236" that was issued to NSSI on March 22, 1994 (hereafter "NSSI Order"). 1/ In accordance with the provisions of the Settlement Agreement, NSSI and Mr. Robert C. Dailey submit this notice of withdrawal of that part of their requests for a hearing

1/ This order was published in the Federal Register at 59 Fed. Reg. 14429 (March 28, 1994).

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that relates to Part IV.B of the NSSI Order. In addition, NSSI also submits notice of withdrawal of its "Motion to Set Aside Immediate Effectiveness of Part IV.B of NRC's Order Captioned EA 93-236" dated April 29, 1994.

This Notice does not affect NSSI's and Mr. Dailey's request for a hearing on other portions of the NSSI Order (e.g., Part IV.A), and on a related order captioned "IA 94-003" that was issued to Mr. Dailey on March 22, 1994 (hereafter "Dailey Order"). 2/

BACKGROUND

On March 22, 1994, the NRC issued both the NSSI Order and the Dailey Order, "Effective Immediately." The orders require that Mr. Dailey be prohibited from participating in NRC-licensed or -regulated activities until March 22, 1999. In connection with this requirement, NSSI was ordered to remove Mr. Dailey from such activities, and both NSSI and Mr. Dailey are required to provide notice of the orders to any potential future employer of Mr. Dailey in such activities.

Both Mr. Dailey and NSSI have requested a hearing on these requirements, and pending the hearing they are complying with the immediately effective provisions relating to Mr. Dailey. NSSI has summarized its compliance efforts in a letter to Mr. James Lieberman, Director of NRC's Office of Enforcement, dated March 29, 1994.

2/ This Order was published in the Federal Register at 59 Fed. Reg. 14688 (March 29, 1994).

In addition to provisions relating to Mr. Dailey, Part IV.B of the NSSI Order imposes requirements upon NSSI to conduct a review (paragraph IV.B.2) and an audit (paragraph IV.B.5) of the personnel security screening files processed during the period from November 1989 through May 31, 1991 when Mr. Dailey had acted as NSSI's Security Manager. On April 29, 1994, NSSI filed both an Answer requesting a hearing and a motion pursuant to 10 CFR § 2.202(c)(2)(i) to set aside the immediate effectiveness of Part IV.B. The NRC Staff was required to respond to this motion by May 4, 1994, however, NSSI and the NRC Staff agreed that further negotiation might result in an agreement in compromise on the requirements imposed by Part IV.B. Therefore, on May 4, 1994 the Atomic Safety and Licensing Board ("Licensing Board") granted a "Joint Motion of NSSI and NRC Staff to Delay Commencement of Portion of Proceeding" until June 3, 1994. On June 3, 1994, the Licensing Board authorized a further delay until June 17, 1994. In a telephone conference on June 17, 1994, the Licensing Board authorized further delay until June 21, 1994.

DISCUSSION

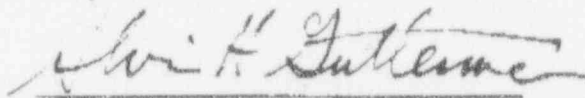
As a result of discussions and negotiation, NSSI and the NRC Staff have reached a compromise by which NSSI has agreed to take certain actions that satisfy the NRC Staff concerns that led to the imposition of the requirements in Part IV.B. In doing so, NSSI and the NRC Staff have neither admitted nor denied that the provisions of Part IV.B are either justified or unjustified.

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However, both the NRC Staff and NSSI agree that the actions that NSSI agrees to take pursuant to this Settlement Agreement, if properly implemented, adequately address the NRC Staff's concerns with regard to the adequacy of the access authorization recommendations made by NSSI and the adequacy of NSSI's access authorization screening program during the time that Mr. Dailey was NSSI's Security Manager.

THEREFORE, in accordance with the provisions of the Settlement Agreement, NSSI and Mr. Robert C. Dailey hereby respectfully withdraw that part of their requests for a hearing that relates to Part IV.B of the NSSI Order. In addition, NSSI hereby withdraws its "Motion to Set Aside Immediate Effectiveness of Part IV.B of NRC's Order Captioned EA 93-236" dated April 29, 1994.

Respectfully Submitted,



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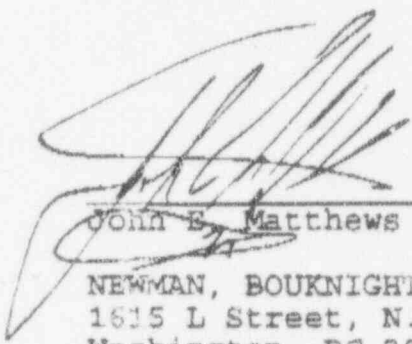
June 21, 1994

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Dated this 21st day of June, 1994.



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