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September 18, 1992

Mr. James Lieberman
Director
Office of Enforcement
MS 7-H5
Nuclear Regulatory Commission
Washington, DC 20555

Re: Nuclear Energy Services, Inc. and Arnold Gundersen,
Docket No. 030-22060

Dear Mr. Lieberman:

Our office represents Nuclear Energy Services in connection with the above-referenced matter. The Company has received its copy of your letter to Mr. Gundersen's new counsel, Ernest C. Hadley, dated August 31, 1992. The Company believes that you should have the following facts before you in responding to Mr. Hadley's letter dated August 14, 1992.

First, NES absolutely denies that it is guilty of any procedural and license violations or that it made any material misstatements in connection with the NRC's inspection into these matters.

Second, NES also denies any harassment of Gundersen for his alleged reporting of safety violations. On the contrary, as the following facts and evidence demonstrate, it is Gundersen who has engaged in harassment of the Company by his continuing assertion of his claim that he was improperly terminated by the Company.

Gundersen was separated from his employment with NES on May 21, 1990. Shortly thereafter, Gundersen filed a complaint dated June 8, 1990 with the United States Department of Labor alleging that he was terminated because of his whistleblowing activities, in violation of Section 210 of the Energy Reorganization Act. (Exhibit 1)

Following a full investigation of Gundersen's allegations, the DOL issued a letter to Gundersen dated July 12, 1990 notifying him that the investigation did not verify his allegations and concluding that his "termination resulted from an overall reduction of personnel and subsequent cost savings to the

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firm." (Exhibit 2) This letter also notified Gundersen that this determination would become a Final Order of the Secretary of Labor dismissing his complaint unless he filed a request for a hearing within five calendar days from his receipt of the letter. Gundersen never filed a request for a hearing.

Two months later, on September 4, 1990, Gundersen's counsel filed a Petition For Review in the United States Court of Appeals for the Second Circuit. (Exhibit 3) In the Petition, Gundersen again asserted that his termination was in violation of the Energy Reorganization Act and requested the Second Circuit to review the DOL's July 12, 1990 determination.

By Order dated December 13, 1990 the Second Circuit dismissed Gundersen's appeal. (Exhibit 4) Shortly thereafter, following several days of negotiations between Gundersen's counsel and in-house counsel for the Company, Gundersen and NES reached a full and complete settlement agreement titled "General Release and Settlement Agreement." (Exhibit 5) This settlement agreement was fully executed by the Company, Gundersen and Gundersen's counsel, and the Company subsequently issued Gundersen and his attorney the settlement check in the amount of \$54,768.00.

The language of the settlement agreement, in several different paragraphs, could not more clearly articulate the parties' intention to fully and finally settle all claims, including future claims, that Gundersen had or may have had against the Company. For example, in the introductory paragraph of the Agreement, the parties agreed that the purpose of the settlement agreement was to "fully and finally dispose of all issues and agree to the following terms as full and final resolution of any prior, present or future action regarding Gundersen's employment and separation from the Company." (emphasis added) Additionally, in paragraph 5 of the settlement agreement, the parties agreed to the following: "This is a full and final release of all claims of every nature and kind whatsoever, and by this Agreement, Gundersen releases the Company from all claims that are known and unknown, suspected and unsuspected, arising out of his employment and separation from employment from the Company." (emphasis added) Finally, paragraph 6 of the Agreement contains Gundersen's additional promise that he would not bring any future legal action of any kind:

Gundersen agrees that by this Agreement, he is expressly waiving his right to bring or pursue any judicial action, administrative agency action, any contractual action, any

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statutory action or procedure or any other action which he could have brought with respect to any matter arising from his employment with the Company and separation therefrom.

Despite all of the above-quoted language, and in direct contravention of their promises made in this settlement agreement, Gundersen and his counsel filed yet another complaint with the Department of Labor on June 22, 1992 again challenging his separation from NES over two years ago. The Department of Labor responded to this new complaint by letter dated July 28, 1992. (Exhibit 6) In this letter, the DOL noted that its determination regarding the allegations of Gundersen's initial complaint two years ago had become a Final Order of the Secretary of Labor dismissing the complaint, and found that "there is no apparent basis to change the original determination." The DOL further noted that Gundersen's new complaint was untimely as to his termination from employment which occurred over two years prior to its filing. (Under Section 210 of the Energy Reorganization Act, a complaint must be filed with Department of Labor within 30 days of the alleged violation. 42 U.S.C. § 5851(b)(1))

In further contravention of their settlement agreement with NES, Gundersen and his counsel have appealed the DOL's July 28, 1992 determination regarding his new complaint and have requested a formal hearing. (Exhibit 7) NES has responded to Gundersen's appeal, which is now before Administrative Law Judge Glenn Robert Lawrence, requesting that the appeal be denied and the complaint dismissed based on all of the above facts.

Finally, Gundersen and his counsel have again violated the terms of their settlement agreement with NES by their filing of the August 14, 1992 letter which is now before you. This letter again challenges Gundersen's May 21, 1990 termination from NES, which Gundersen and his counsel explicitly agreed not to do in their December 1990 settlement agreement with the Company.

The issue of Arnold Gundersen's termination from NES was fully and finally litigated in 1990. Following a complete investigation at that time, the Department of Labor concluded that there was no merit to his allegations, and this determination became a Final Order of the Secretary of Labor when Gundersen and his counsel chose not to appeal the determination. The Company, with good reason, thought that this ended the matter.

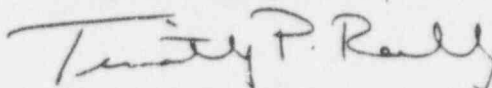
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Gundersen and his counsel then challenged this Final Order in the United States Court of Appeals For The Second Circuit in the fall of 1990. This challenge was also dismissed, by Order dated December 13, 1990. Again, the Company, with good reason, thought that this ended the matter.

Then, after extensive negotiations, the Company agreed to fully and finally settle its disputes with Mr. Gundersen, and the above-referenced settlement was consummated at the end of 1990. The language of this agreement could not be more finally and binding, and Gundersen's waiver and release of all claims, including future claims, could not be more expressly stated. Once again, the Company, with good reason, thought that this ended the matter.

Yet, two years later, the Company is still defending its termination of Mr. Gundersen in at least two different forums. The Company respectfully submits that there is no basis for any additional review of Mr. Gundersen's allegations.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Timothy P. Reilly". The signature is fluid and cursive, with the first name "Timothy" and last name "Reilly" clearly distinguishable.

Timothy P. Reilly

TPR:dm

cc: Michael L. Cioffi, Esq.