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GE Hitachi Nuclear Energy

David J. Heckman
Regulatory Affairs and Licensing
Lead

6705 Vallecitos Road
Sunol, CA 94586
USA

T (925) 918-6116
David.Heckman1@ge.com

M220017

January 27, 2022

U.S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington D. C. 20555-001

Subject: GEH Vallecitos Nuclear Center (VNC) Notification to Discontinue
Adherence to NRC Order EA-06-155

- References:**
- 1) NRC Order EA-06-155, Issuance of Order Imposing Fingerprinting and Criminal History Check Requirements for Access to Safeguards Information, Issued 8/21/2006 (ML061370106)
 - 2) VNC California Agreement State Byproduct Material License CA 0017-01, Docket 030-36792
 - 3) VNC NRC License SNM-960, Docket 070-00754
 - 4) VNC NRC License SNM-1270, Docket 070-01220
 - 5) VNC NRC License R-33, GEH Nuclear Test Reactor, Docket 050-00073
 - 6) Letter, David W. Turner (GEH) to Ernesto Quinones (NRC), EA-06-155 for License CA 0017-01, Docket 030-36792, 9/8/2006
 - 7) NRC Letter, Rescission of USNRC's Issued Security Orders for Compensatory Measures, Additional Security Measures, and Increased Controls, 4/10/2014 (ML14073A493)
 - 8) NRC Confirmatory Order EA-14-144 to GEH VNC for NRC license SNM-960, 4/22/2015 (ML14269A172)
 - 9) NRC Letter, Rescission of USNRC's Issued Security Orders for Compensatory Measures, Additional Security Measures, 4/21/2016 (ML16053A395)
 - 10) GEH Letter, Request to Withdraw Commitment Letter to NRC Order EA-06-155, 10/20/2021 (ML21293A154)
 - 11) MSTeams call between M. Takacs (NRR) and D. Heckman (GEH), 1/18/2022
 - 12) MSTeams call between D. Hardesty (NRR) and D. Heckman (GEH), 1/25/2022
 - 13) Email from O. Siurano-Perez (NMSS) and D. Heckman (GEH), 1/24/2022

GEH intends to withdraw commitments made in 2006 letter (Ref 6) and to discontinue adherence to rescinded NRC Order EA-06-155.

On August 21, 2006, the NRC issued Order EA-06-155 (Ref 1) against the GEH VNC California Agreement State byproduct material license, CA 0017-01 (Ref 2).

On September 8, 2006, GEH responded in a letter (Ref 6), and in that letter made voluntary commitments that applied requirements contained in Order EA-06-155 to site NRC licenses R-33, SNM-960, and SNM-1270 (Refs 3, 4, & 5).

On 4/10/2014, Order EA-06-155 (Ref 7) was rescinded, contingent on full implementation of 10 CFR 37 by the Agreement State.

On 4/22/2015, the NRC issued Order EA-14-144 (Ref 8) for storage of SNM under license SNM-960 at the VNC. This Order contains a requirement that GEH protect SGI associated with SNM in storage according to applicable regulations and according to NRC Order EA-06-155.

On 4/21/2016 (Ref 9), the NRC fully rescinded NRC Order EA-06-155, superseded by and coinciding with the full implementation of 10 CFR 37 by the State of California.

As a result of these actions, VNC licenses R-33, SNM-960, and SNM-1270 are ambiguously committed to requirements of rescinded Order EA-06-155, to which GEH has remained in adherence due to its inclusion in Order EA-14-144.

On 10/20/2021, GEH submitted a request to withdraw the 2006 letter (Ref 10); however, in subsequent discussions with the NRR and NMSS (Refs 11, 12, and 13), the NRC conveyed that the commitments made in that letter were never acknowledged by the NRC, that there was no need to withdrawal the letter, and that the NRC simply needs a letter from GEH stating that they are discontinuing adhering to the rescinded Order EA-06-155 along with a position statement for doing so.

Therefore, GEH is notifying the NRC that we are discontinuing adherence to rescinded Order EA-06-155 albeit it's inclusion by reference in Order EA-14-144 for the following reasons:

1. Order EA-06-155 was fully rescinded in 2016 and superseded by 10 CFR 37.
2. Order EA-06-155 was issued specifically to byproduct material licensees and was never germane to the Vallecitos SNM-960 license.
3. Order EA-06-155 was issued to address protection of safeguard information modified handling (SGI-M) related to 10 CFR 37 Category 1 and 2 quantities, while SNM (in specified quantities) is subject to the SGI protection requirements of 10 CFR 73.21 and § 73.22.
4. Byproduct material at Vallecitos in Part 37 Category 1 and 2 quantities are controlled under the State of California byproduct material license CA 0017-01 and control of related information is pursuant to § 37.31.

If you have any questions concerning this letter, please contact me at (925) 918 6116.

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Sincerely,

**David
Heckman**

Digitally signed by David
Heckman
Date: 2022.01.26
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David Heckman, VNC Licensing Lead
Vallecitos Nuclear Center

cc: NRC Region IV Administrator
J. D. Parrott, NRC/DUWP/RDB
O. S. Siurano-Perez, NMSS/DFM/FFLB
D. A. Hardesty, NRR/DANU/UNPL
E. L. Quinones, NMSS/MSST/SMPB

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