



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET SW SUITE 23T85
ATLANTA, GEORGIA 30303-8931

[REDACTED]

IA-05-022

Ms. Kelly Laco
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390(a)]

SUBJECT: EXERCISE OF ENFORCEMENT DISCRETION (NRC OFFICE OF
INVESTIGATIONS REPORT NO. 2-2004-003)

Dear Ms. Laco:

This refers to an inspection completed by the Nuclear Regulatory Commission on January 24, 2004, and an Office of Investigations (OI) investigation completed on March 3, 2005. The purpose of the inspection and investigation was to review the circumstances surrounding your involvement in the failure to verify the proper positioning of a process waste collection tank (WD tank) discharge valve in December 2003. This issue was documented as an unresolved item pending additional review, in NRC Inspection Report No. 70-143/2004-01, issued on February 23, 2004.

Based on the information developed during the inspection and investigation, the NRC has determined that a violation of 10 CFR 70.10, Deliberate Misconduct, occurred. This rule states, in part, that any employee of an NRC licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any rule, regulation, or order of the Commission. In this case, your actions caused NFS to be in violation of Safety Condition S-1 of its Special Nuclear Materials License, and NFS Standard Operating Procedure (SOP) 401, when you failed to verify the proper positioning of a tank discharge valve to the waste water treatment facility, [REDACTED]. The NRC also concluded that your actions were deliberate, in that you were fully aware at the time that the procedure required the valved to be locked in the closed position, and required that you verify the proper positioning of the valve. The Enclosure provides a copy of the letter transmitting the Notice of Violation to your employer in this matter.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Ms. Laco

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In determining the appropriate sanction to be applied in this case, the NRC considered several factors, including the underlying low safety significance of the mis-positioned valve, the isolated nature of the violation, the fact that you are a non-supervisory employee, your candor and cooperation with NFS and the NRC during reviews of this matter, and the fact that disciplinary action was taken against you by NFS. Given these special circumstances, the NRC considers it appropriate to exercise enforcement discretion in accordance with Section VII.B.6 of the NRC Enforcement Policy. Therefore, after consultation with the Director, Office of Enforcement, and in consideration of the circumstances of this case, it has been determined that no individual enforcement action will be taken against you. You should be aware that if you are involved in NRC-licensed activities in the future, additional deliberate violations could result in significant enforcement or other action.

You are not required to respond to this letter unless the description herein does not accurately reflect the circumstances of this matter.

[REDACTED]

Should you have any questions concerning this letter, please contact Mr. Douglas Collins, Director, Division of Fuel Facilities Inspection, at (404) 562-4700.

Sincerely,

/RA by Loren R. Plisco Acting for/

William D. Travers
Regional Administrator

Enclosure:
Notice of Violation to NFS

CERTIFIED MAIL 7003 0500 0004 4830 4457
RETURN RECEIPT REQUESTED

[REDACTED]



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[REDACTED]

NOTICE OF VIOLATION

Nuclear Fuel Services, Inc.
Erwin, Tennessee

Docket No. 70-143
License No. SNM-124
EA-04-199

During an NRC inspection conducted from November 30, 2003 - January 24, 2004, and an investigation completed by the NRC's Office of Investigations on March 3, 2005, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

- A. Safety Condition S-1 of Special Nuclear Materials License No. SNM-124 authorizes the use of licensed materials in accordance with the statements, representations, and conditions in the license Application and Supplements.

Section 2.7 of the License Application, Procedures, states "SNM operations and safety function activities are conducted in accordance with written procedures as defined in Section 1.7.4 and 1.7.5." Sections 1.7.4 and 1.7.5 describe operating procedures and safety procedures.

NFS Standard Operating Procedure (SOP) 401, section 6.3, requires valve [REDACTED] to be locked shut after a transfer operation. SOP 401, section 6.2, requires verification, confirmed by signature, that valve [REDACTED] is locked shut [REDACTED]

Contrary to the above, on December 30, 2003, valve [REDACTED] was not locked shut after a transfer operation, and on December 31, 2003, valve [REDACTED] was not verified to be shut [REDACTED]

This is a Severity Level III Violation (Supplement VI).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in the information provided by NFS as documented in this letter. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation - EA-04-199," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region II, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

[REDACTED]

[REDACTED]

NOV

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If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

[REDACTED]

[REDACTED] If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 19.11, you may be required to post this Notice within 2 working days.

Dated this 23rd day of May 2005

Enclosure

[REDACTED]