UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 E. LAMAR BLVD.
ARLINGTON, TX 76011-4511

September 30, 2016

EA-16-051

Mr. Brent Berg, President
Power Resources, Inc.
550 North Poplar Street, Suite 100
Casper, WY 82601

SUBJECT: CONFIRMATORY ORDER AND NRC INVESTIGATION REPORT 4-2014-034

Dear Mr. Berg:

The enclosed Confirmatory Order is being issued to you as a result of a successful alternative dispute resolution mediation session. The enclosed commitments were made as part of a settlement agreement between Power Resources, Inc. and the U.S. Nuclear Regulatory Commission (NRC). The settlement agreement concerns an apparent violation of NRC requirements, as discussed in our letter dated August 24, 2016 (Agencywide Documents Access and Management System (ADAMS) ML16238A460).

Our August 24, 2016, letter provided you with the results of an investigation conducted by the NRC's Office of Investigations to determine whether willful violations of NRC requirements occurred at the Power Resources, Inc.'s North Butte satellite facility located in Campbell County, Wyoming. Based on the results of the investigation, the NRC preliminarily determined that a former operations supervisor willfully failed to maintain complete and accurate records of contamination exit surveys.

Our letter also informed you that four apparent violations by Power Resources, Inc. were being considered for escalated enforcement action in accordance with the NRC's Enforcement Policy and provided you the option of (1) responding to the apparent violations within 30 days of the date of our letter; (2) attending a predecisional enforcement conference; or (3) requesting alternative dispute resolution with the NRC. In response to our letter, you requested alternative dispute resolution to address the apparent willful and nonwillful violations.

An alternative dispute resolution mediation session was held on September 22, 2016, and a preliminary settlement agreement was reached. The elements of that agreement, formulated and agreed to at the mediation session, are incorporated in the enclosed Confirmatory Order (Enclosure 1). The Confirmatory Order confirms the commitments made as part of the preliminary settlement agreement.

At the mediation session, you agreed that a Confirmatory Order would be issued in settlement of a disputed claim in order to avoid further action by the NRC. In light of the significant corrective actions you have taken and subject to the satisfactory completion of the additional actions you committed to take, as described in the Confirmatory Order, the NRC will not issue a Notice of Violation for the apparent violations discussed in the NRC's letter dated August 24, 2016, and will not issue an associated civil penalty. The NRC is satisfied that its concerns will

be addressed by making your commitments legally binding through a Confirmatory Order. As evidenced by the signed "Consent and Hearing Waiver Form" (Enclosure 2), dated September 27, 2016, you agreed to the issuance of this Confirmatory Order.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Confirmatory Order shall be subject to criminal prosecution, as set forth in that section. Violation of this Confirmatory Order may also subject the person to civil monetary penalties.

Apart from the actions required by the enclosed Confirmatory Order, you are not required to respond to this letter. However, if you choose to provide a response, please provide it to me within 30 days at the following address: U.S. Nuclear Regulatory Commission, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511. Should you have questions concerning the enclosed Confirmatory Order, please contact John Kramer, Senior Enforcement Specialist, at 817-200-1121.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter and its enclosures will be made available electronically for public inspection in ADAMS, accessible from the NRC Web site at http://www.nrc.gov/reading-rm/adams.html. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. The NRC also includes significant enforcement actions on its Web site at http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/.

Sincerely,

Kriss M. Kennedy

Kriss M. Kennedy
Regional Administrator

Docket No. 040-08964
License No. SUA-1548

Enclosures:
1. Confirmatory Order
2. Consent and Hearing Waiver Form

cc w/enclosures:
Robin Jones, Land Quality Division
Wyoming Department of Environmental Quality
200 W. 17th Street, Suite 10
Cheyenne, WY 82002

Ryan Schierman, Land Quality Division
Wyoming Department of Environmental Quality
200 W. 17th Street, Suite 10
Cheyenne, WY 82002

Scott W. Ramsay, Radiological Services Manager
Wyoming Office of Homeland Security
5500 Bishop Blvd.
Cheyenne, WY 82002

Power Resources, Inc.

CONFIRMATORY ORDER

Enclosure 1

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
Power Resources, Inc.	)	Docket No. 040-08964
	)	License No. SUA-1548
	)	EA-16-051

CONFIRMATORY ORDER MODIFYING LICENSE
(EFFECTIVE UPON ISSUANCE)

I

Power Resources, Inc. (PRI or Licensee), is the holder of Source Material License SUA-1548 issued on May 8, 2001, by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 40 of Title 10 of the *Code of Federal Regulations* (10 CFR). The license authorizes the operation of PRI's North Butte satellite facility in accordance with conditions specified therein. The facility is located on the licensee's site in Campbell County, Wyoming.

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on September 22, 2016.

II

On June 27, 2014, the NRC's Office of Investigations (OI), initiated an investigation (OI Case No. 4-2014-034) at PRI's North Butte satellite facility. Based on the evidence developed during its investigation, the NRC identified apparent violations of 10 CFR 20.1501, "Surveys and Monitoring – General," and 10 CFR 40.9, "Completeness and accuracy of

information," as well as, two apparent violations of License Condition 9.3 of License SUA 1548, Amendment 18, dated March 27, 2013, which includes the requirement that the licensee conduct its operations in accordance with Volume 1, Chapter 9, "Management Control Procedures," of the licensee's application dated May 6, 2003, as amended based on letter dated March 20, 2008. In addition, based on OI's investigative results, the NRC is concerned that willfulness may be associated with the apparent violation involving the failure to maintain accurate records of contamination exit surveys. By letter dated August 24, 2016, the NRC notified PRI of the results of the investigation and provided an opportunity to: (1) provide a response in writing, (2) attend a predecisional enforcement conference, or (3) participate in an ADR mediation session in an effort to resolve these concerns.

In response to the NRC's offer, PRI requested the use of the NRC's ADR process to resolve differences it had with the NRC. On September 22, 2016, the NRC and PRI met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. The ADR process is one in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement on resolving any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

III

During that ADR session, PRI and the NRC reached a preliminary settlement agreement. The NRC recognizes the corrective actions that PRI has already implemented associated with the apparent violations. The elements of the agreement include the following:

Corrective actions taken by PRI include:

A. Problem Evaluation.

1. Completed a prompt apparent cause investigation into the incident, including an assessment of compliance with company procedures and proposed corrective actions. Included appropriate notification of regulatory authorities.

2. Engaged external counsel to conduct an independent investigation of allegations of falsification of survey records. Included appropriate notification of regulatory authorities.

B. Communications.

1. The PRI President issued a written communication to all North Butte employees describing expectations that employees will comply with NRC regulations and license requirements, Cameco code of conduct, and principles of a safety conscious work environment.

2. The PRI President met with employees involved in NRC-regulated activities at each facility, as well as employees at corporate offices that were involved with activities conducted under the license, to discuss management's expectations for employee compliance with NRC and licensee requirements, Cameco code of conduct, ethics, and principles of a safety conscious work environment.

C. Training.

1. Conducted training on "Government Oversight of Uranium Mining," including discussion of complete and accurate information, deliberate misconduct, and employee protection requirements for all employees at the North Butte facility.

2. Conducted training for supervisory employees regarding enhanced investigative and documentation techniques for issues that have the potential to include employee wrongdoing, including deliberate misconduct, falsification of documents, and harassment, retaliation, and chilling effects at the Smith Ranch, North Butte, and Crow Butte facilities.

3. Conducted training for supervisory employees regarding maintenance of a safety conscious work environment, including employee protection, barriers to a safety conscious work environment, chilling effects, and best practices. The safety conscious work environment training included an interactive discussion of multiple case studies and examples relevant to the PRI operational facilities.

4. Conducted management/supervisor team training on the Cameco Code of Conduct and Ethics at the PRI operational facilities.

5. Conducted immediate refresher training on requirements for free release surveys, contractor training, and documentation of daily monitoring records for the North Butte Mine Manager, Operations Supervisor, and Safety Health Environment and Quality Specialist III.

6. Added training specific to the proper use of daily monitoring records to the PRI annual refresher training and to the new hire/contractor radiation training.

7. Added training on processes involving free release surveys, personnel qualified to perform free release surveys of equipment, and on the use of specific forms to the PRI annual refresher training and new hire/contractor radiation training.

8. To ensure the effectiveness of the training, examination questions regarding free release surveys were added to the test that all personnel must pass in order to work unescorted in radiologically-controlled areas at all PRI facilities.

D. Work Processes.

1. Conducted assessment of processes for initiating and completing inquiries into alleged employee misconduct, including scope, timeliness, and determinations

regarding such allegations, and a review of the employee handbook. Made updates as appropriate.

2. Conducted a review of procedures, annual and refresher training, and work processes for revisions and enhancements. Made changes where appropriate. Changes included revised procedures for completing and documenting hazard awareness training, and improvements in the process for completing, documenting, and maintenance-of-records for daily monitoring records.

The elements of the agreement, as signed by both parties, consist of the following:

A. The NRC has concluded that a willful violation of Title 10 of the *Code of Federal Regulations* (10 CFR) 40.9(a) occurred between September 12, 2013, and February 6, 2014, when an operations supervisor documented contamination control exit surveys of contract personnel exiting the North Butte satellite facility when, in fact, the exit surveys were not performed. Power Resources, Inc., agrees with this conclusion.

B. Within 12 months of the issuance date of the Confirmatory Order and on an annual basis thereafter, PRI will conduct a meeting among key management, radiation safety officer, facility managers, and other appropriate technical personnel to provide assurance that management understands the requirements of a radiation protection program such that they can perform reviews to ensure the requirements are being met.

1. The meeting will include discussion and review of performance indicators, license changes, preparations for major changes in operations, health physics issues, procedure compliance indicators, operational safety issues, and the radiation protection program.

2. A summary of each annual meeting will be retained for a period of at least 3 years after the meeting is held.

C. Within 12 months of the issuance date of the Confirmatory Order, PRI will incorporate 10 CFR 40.9, "Completeness and accuracy of information," and 10 CFR 40.10, "Deliberate misconduct," requirements into initial and annual employee refresher training for all employees involved in NRC-regulated activities.

1. The training will emphasize the importance of complete and accurate information for all required records, correspondence, and communications with the NRC and its staff.

2. Training will emphasize individual accountability and clearly express that willful or deliberate failures to comply with regulations, orders, or license requirements could result in significant individual enforcement action by the NRC.

3. The training will reinforce that if any individual recognizes a non-compliance, they will immediately report the observation of the non-compliance to management.

D. Power Resources, Inc., will have a qualified member of the health physics staff available at any of its facilities when equipment is being released from a radiologically-controlled area to an unrestricted area. If a qualified member of the health physics staff is unavailable, the equipment will not be released from the radiologically-controlled area.

E. Notifications to the NRC when actions are completed.

1. Power Resources Inc., will submit written notification to the Director, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511, at intervals not to exceed 12 months until the terms of this Confirmatory Order are completed, providing a status of each item in the Order.

2. Power Resources Inc., will provide its basis for concluding that the terms of the Confirmatory Order have been satisfied, to the NRC, in writing to Director, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511. The NRC will review to confirm whether or not the terms of the Confirmatory Order have been satisfied.

F. Administrative items.

1. The NRC and PRI agree that the above elements will be incorporated into a Confirmatory Order.

2. The NRC will consider the Confirmatory Order an escalated enforcement action with respect to future enforcement actions. The NRC will give the licensee credit for identification of this willful violation as of May 20, 2014.

3. In consideration of the commitments delineated above, the NRC agrees not to issue a Notice of Violation for the violations discussed in NRC Investigation Report 4-2014-034 and letter issued by the NRC dated August 24, 2016, (EA-16-051), and not to issue an associated civil penalty.

4. This agreement is binding upon successors and assigns of PRI.

Based on the completed actions described above, and the commitments described in Section V below, the NRC agrees to not pursue any further enforcement action based on the apparent violations identified in the NRC's August 24, 2016, letter.

On September 27, 2016, PRI consented to issuing this Confirmatory Order with the commitments, as described in Section V below. Power Resources Inc., further agreed that this Confirmatory Order is to be effective upon issuance, the agreement memorialized in this Confirmatory Order settles the matter between the parties, and that it has waived its right to a hearing.

IV

I find that PRI's actions completed, as described in Section III above, combined with the commitments as set forth in Section V are acceptable and necessary, and conclude that with

these commitments public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that PRI's commitments be confirmed by this Confirmatory Order. Based on the above and PRI's consent, this Confirmatory Order is effective upon issuance.

V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 40, IT IS HEREBY ORDERED, EFFECTIVE UPON ISSUANCE, THAT LICENSE NO. SUA-1548 IS MODIFIED AS FOLLOWS:

A. Within 12 months of the issuance date of the Confirmatory Order and on an annual basis thereafter, PRI will conduct a meeting among key management, radiation safety officer, facility managers, and other appropriate technical personnel to provide assurance that management understands the requirements of a radiation protection program such that they can perform reviews to ensure the requirements are being met.

1. The meeting will include discussion and review of performance indicators, license changes, preparations for major changes in operations, health physics issues, procedure compliance indicators, operational safety issues, and the radiation protection program.

2. A summary of each annual meeting will be retained for a period of at least 3 years after the meeting is held.

B. Within 12 months of the issuance date of the Confirmatory Order, PRI will incorporate 10 CFR 40.9, "Completeness and accuracy of information," and 10 CFR 40.10, "Deliberate misconduct," requirements into initial and annual employee refresher training for all employees involved in NRC-regulated activities.

1. The training will emphasize the importance of complete and accurate information for all required records, correspondence, and communications with the NRC and its staff.

2. Training will emphasize individual accountability and clearly express that willful or deliberate failures to comply with regulations, orders, or license requirements, could result in significant individual enforcement action by the NRC.

3. The training will reinforce that if any individual recognizes a non-compliance, they will immediately report the observation of the non-compliance to management.

C. Power Resources, Inc., will have a qualified member of the health physics staff available at any of its facilities when equipment is being released from a radiologically-controlled area to an unrestricted area. If a qualified member of the health physics staff is unavailable, the equipment will not be released from the radiologically-controlled area.

D. Notifications to the NRC when actions are completed.

1. Power Resources Inc., will submit written notification to the Director, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511, at intervals not to exceed 12 months until the terms of this Confirmatory Order are completed, providing a status of each item in the Order.

2. Power Resources Inc., will provide its basis for concluding that the terms of the Confirmatory Order have been satisfied, to the NRC, in writing to Director, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511.

The NRC will review to confirm whether or not the terms of the Confirmatory Order have been satisfied.

This Confirmatory Order is binding upon successors and assigns of PRI.

The Regional Administrator, Region IV, may, in writing, relax or rescind any of the above conditions upon demonstration by PRI or its successors of good cause.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this Confirmatory Order, other than PRI, may request a hearing within 30 calendar days of the date of issuance of this Confirmatory Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at (301) 415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is

participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at http://www.nrc.gov/site-help/e-submittals/getting-started.html. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submissions to the NRC, Revision 6.1," which is available on the agency's public Web site at http://www.nrc.gov/site-help/electronic-sub-ref-mat.html. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Electronic Filing Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System (EIE), users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at http://www.nrc.gov/site-help/e-submittals.html.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at http://www.nrc.gov/site-help/e-submittals.html. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document.

The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request or petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Electronic Filing Help Desk through the NRC's public Web site at http://www.nrc.gov/site-help/e-submittals/contact-us-eie.html, by e-mail at MSHD.Resource@nrc.gov, or by a toll-free call at (866) 672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 7 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff.

Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at http://ehd1.nrc.gov/ehd, unless excluded pursuant to an order of the Commission or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the

purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person (other than PRI) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for a hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date this Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

For the Nuclear Regulatory Commission

Kriss M. Kennedy

Kriss M. Kennedy
Regional Administrator
NRC Region IV

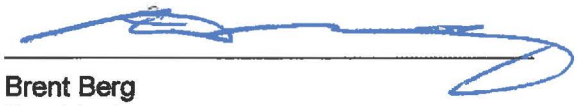
Dated this 30th day of September 2016

CONSENT AND HEARING WAIVER FORM

Enclosure 2

CONSENT AND HEARING WAIVER FORM

Power Resources, Inc., hereby agrees to comply with the terms and conditions of the Confirmatory Order arising out of an alternative dispute resolution mediation session on September 22, 2016, to be issued relating to enforcement action EA-16-051. The Confirmatory Order will be effective upon issuance and the agreement memorialized in this Confirmatory Order settles the matter between the parties. By signing below, Power Resources, Inc., consents to the issuance of the referenced Confirmatory Order, and, by doing so, agrees to waive the right to request a hearing on all or any part of the Confirmatory Order.



9.27.16

Brent Berg
President
Power Resources, Inc.

Date