



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV

611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064

October 3, 1996

EA 96-268

William N. Deal, Manager
White Mesa Mill
Energy Fuels Nuclear, Inc.
6425 S. Highway 191
P. O. Box 789
Blanding, Utah 84511

SUBJECT: EXERCISE OF DISCRETION
(Investigation Report No. 4-96-021)

Dear Mr. Deal:

This refers to the investigation conducted from May 14, 1996 through July 19, 1996, regarding activities at the White Mesa facility. The investigation was conducted to review the circumstances involving a yellowcake packaging incident which occurred on February 22, 1996. Energy Fuels Nuclear (EFN) informed us of the incident by telephone on February 23, 1996, and subsequently provided us more information by letter dated April 24, 1996. The incident involved a mill foreman who was observed "packaging" yellowcake without wearing the required personal protective equipment (PPE). EFN's April 24 letter stated that because of the mill foreman's position in the organization, and his failure to demonstrate commitment to the company's ALARA program on that occasion, disciplinary action was taken.

The investigation found that the incident occurred when plant personnel were shutting down the mill and cleaning up the facility. The mill foreman informed the investigator that he (the foreman) observed a filled barrel of yellowcake inside the yellowcake packaging room. He entered the room, set a lid on the barrel, and rolled the drum outside for final packaging. He also stated that he knew of the procedural requirement to wear PPE, but that he was not thinking - the mill was shutting down, everyone was in a hurry and the barrel needed to be processed. Based on the information developed during the NRC's investigation, the NRC has determined that the mill foreman deliberately violated plant procedural requirements and EFN's NRC license when he performed packaging activities without the required PPE. Deliberate misconduct is a violation of 10 CFR 40.10.

There were no actual safety consequences of the foreman's failure to wear PPE under those circumstances. This was due to the fact that yellowcake packaging was not being conducted in an assembly fashion and so there was a small potential for creating airborne exposures. The bioassay results were also less than the action level. However, deliberate violations committed by individuals above a first line supervisor, is of significant regulatory concern. Therefore, the deliberate violation of plant procedures would normally be categorized in accordance with the "General Statement of Policy

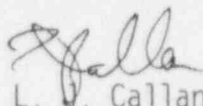
and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600 at Severity Level III, and would normally be considered for a civil penalty.

In this case, EFN's actions in response to this incident were especially noteworthy. EFN not only identified the violation, but EFN took immediate and comprehensive corrective actions that provided a clear message to your staff that this conduct was not acceptable. These actions included counseling and other disciplinary action against the individual involved, bioassay sampling to determine the uptake, and a follow-up meeting with the entire staff at the White Mesa Mill on February 27, 1996, in which the proper procedures and required PPE were reviewed. EFN also informed the NRC about the incident even though there was no requirement to do so.

Therefore, to encourage prompt identification and comprehensive corrective actions, I have been authorized, after consultation with the Director, Office of Enforcement and the Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support, to exercise discretion under section VII.B.6 of the Enforcement Policy. As such, no civil penalty is proposed and no Notice of Violation will be issued. However, significant violations in the future could result in a Notice of Violation and a civil penalty. Enclosed for your information is a copy of the Notice of Violation issued to your Mill Foreman on September 6, 1996.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, and your April 24 letter will be placed in the NRC Public Document Room.

Sincerely,



L. D. Callan
Regional Administrator

Docket No. 40-8681
License No. SUA-1358

Enclosure:
As stated

cc:
Harold R. Roberts, President
Energy Fuels Nuclear, Inc.
Three Park Central, Suite 900
1515 Arapaho Street
Denver, Colorado 80202

William N. Deal

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William J. Sinclair, Director
Division of Radiation Control
Department of Environmental Quality
State of Utah
168 North 1950 West
Salt Lake City, Utah 84115-4850

Kirk H. Carroll
Mill Foreman
White Mesa Mill
Energy Fuels Nuclear, Inc.
6425 S. Highway 191
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