



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

December 12, 1996

Ms. Jotilley Dortch
4205 Buckner Lane
Paducah, KY 42001

Dear Ms. Dortch:

Your October 15, 1996 letter to the Commission has been referred to me for response. Your letter stated it was in response to the petitions of Vina K. Colley, Mark Donham and Kristi Hanson. However, because your letter raised new issues beyond those raised in the petitions, the Commission referred the letter to the staff for response. See Commission Memorandum and Order CLI-96-12.

In your letter you indicate that you believe the certificate of compliance for the Paducah gaseous diffusion plant (GDP) should not be issued until such time as the plant is in full compliance. Specific areas that were raised by your letter were the failure to fully implement the training and quality assurance programs and concern over the weaknesses that have been identified in our observation reports.

Most of the items identified in your letter are covered by the compliance plan. The compliance plan contains those items that are not currently being conducted as described in the application, in other words the items are in non-compliance. Congress recognized that the GDPs might not be able to comply immediately with all aspects of NRC regulation and, therefore, established a mechanism to deal with this situation. The Energy Policy Act of 1992 that established the United States Enrichment Corporation (USEC) and required the NRC to develop a certification process and assume regulatory authority over the GDPs, also established the requirement for a Department of Energy prepared compliance plan. This requirement is also reflected in the NRC's regulations in 10 CFR Part 76. While we agree that it would be preferable to have the GDPs in full compliance at the time of certification, both our regulations and the statute do allow for non-compliances.

The compliance plan establishes the schedule for bringing each item into compliance. The most important items are completed first. For example, those items related to the highest level of quality assurance will be complete before those related to the lower levels of quality assurance. In general, any item that deals with a technical safety requirement will be complete when the NRC assumes jurisdiction on March 3, 1997; Q items (highest level of quality assurance) will be complete by March 31, 1997, and all other items pertaining to the quality assurance program will be in place by December 31, 1997.

The weaknesses discussed in your letter fall under the heading of management controls or oversight. We are aware of the findings documented in our observation reports by our inspectors. This concern was also discussed in the staff's Compliance Evaluation Report prepared for the certification (see §3.13). Management oversight was discussed at a

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NRC/USEC meeting on November 14, 1996. The NRC staff will continue to closely monitor the USEC activities in the area of management controls and oversight to ensure that the programs are being effectively implemented.

The final item addressed in your letter was the lack of an onsite comprehensive field report. However, the stated premise for your comment was false because this type of report is not standard for NRC licensed fuel cycle facilities regulated by the NRC. Furthermore, Part 76, which contains the regulatory requirements for the GDPs contains no requirement for an onsite comprehensive field report. Therefore, no "exception" has been given to the GDPs by not preparing this report.

In summary, the fact that items of non-compliance exist is not reason to deny the certificate of compliance to the Paducah facility. The compliance plan appropriately addresses the items of non-compliance. Therefore, your request to deny the certificates of compliance until such time that the GDPs are in full compliance is denied.

Sincerely,

Original Signed By
Robert C. Pierson, Chief
Special Projects Branch
Division of Fuel Cycle Safety
and Safeguards, NMSS

Docket 70-7001

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