



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV

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

November 21, 1996

EA 96-342

Mr. Daniel Fishman, President
NDC Systems
5314 N. Irwindale Avenue
Irwindale, California 91706

Dear Mr. Fishman:

This letter is in reference to the predecisional enforcement conference with you and members of your staff on October 23, 1996, and to our follow-up telephone conversation between you and Ms. Linda Howell of my staff on November 5, 1996.

Based on the conversation, we understand that you agree to the commitments identified below. The NRC has determined that the public health and safety require that the commitments be confirmed by a Confirmatory Order Modifying License (Order). Therefore, we intend to incorporate these commitments into an Order following your written consent to them.

- A. NDC shall retain the services of an independent individual or organization (consultant) to perform two audits of the Licensee's activities conducted under the general license, and shall provide the NRC with reports of the audits' findings as described in Provisions D and E below. The audits shall include, but are not limited to:
- (1) review of export activities, including NDC's compliance with Department of Transportation (DOT) regulations;
 - (2) discussion and interviews with NDC employees to verify that employees understand DOT regulations as they relate to NDC's shipping activities and to verify the effectiveness of NDC's corrective actions to the violation identified in the Order;
 - (3) discussion and interviews with NDC employees to verify that NDC employees have been adequately trained on and understand NDC's procedures and policies for raising safety concerns and for seeking guidance related to NRC-licensed activities; and
 - (4) discussion and interviews with NDC employees to determine whether employees have concerns about NDC's policies or procedures for raising safety issues and for seeking guidance.
- B. Within 30 days of the date of the Order, NDC shall submit to the NRC, for NRC review and approval, the name and qualifications of the consultant it proposes to use in conducting these audits. The consultant shall be independent of the Licensee's organization and shall be experienced in performing evaluations of NRC or Agreement State licensee programs with respect to implementation of the Department of Transportation (DOT) regulations.

- C. Prior to supervising or performing any shipping activities, and no later than 60 days after the date of the Order, NDC will provide formal classroom training consistent with the training requirements of 49 CFR Part 172 Subpart H. All individuals who are involved in shipping activities, the Shipping Supervisor and Operations Manager, and the individual or individuals with responsibility for oversight of the radiation safety program are subject to this commitment. For the purpose of the Order, shipping activities include tasks such as packaging, labeling, and completion of appropriate transportation documents.
- D. Within 60 days of the date of NRC's approval of a consultant, NDC shall provide the NRC with a copy of the first audit report, including a description of actions taken and planned in response to any recommendations, comments, or findings in the audit report. Alternatively, if NDC does not believe any specific recommendation should be adopted or an audit finding should not be addressed, NDC will provide justification for its position to the NRC.
- E. Within 12-18 months of the date of the Order, NDC shall provide the NRC with a copy of the second audit report, including a description of actions taken and planned in response to any recommendations, comments, or findings in the audit report. Alternatively, if NDC does not believe any specific recommendation should be adopted or an audit finding should not be addressed, NDC will provide justification for its position to the NRC. If NDC chooses to use a different auditor for this audit, NDC shall submit the qualifications of the auditor to the NRC for approval prior to conducting the audit.
- F. For the purpose of the Order, NDC shall send the audits and its responses, and the qualifications of the auditor, to the Director, Division of Nuclear Material Safety, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and a copy to Chief, Materials Branch, NRC WCFO, 1450 Maria Lane, Walnut Creek California 94596-5368.

If you consent to issuance of the Order confirming the above commitments, you are waiving your right to request a hearing on all or any part of the Order. In addition, you must sign, as noted on Page 4 of this letter, that you agree to such commitments and return this letter within 10 business days from the date of this letter to Mr. James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738. After receiving your written consent, the NRC will issue the aforementioned Order.

Questions concerning this letter should be addressed to me at (817) 860-8100.

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

Sincerely,

Charles L. Cain

~~For~~ Ross A. Scarano, Director
Division of Nuclear Materials Safety

Docket No. 999-90004
General License Pursuant to Part 110

cc:
Public Document Room (PDR)
Nuclear Safety Information Center (NSIC)
State of California

Mr. Daryl Shapiro
Morgan, Lewis & Bockius
1800 M Street, N.W.
Washington, D.C. 20036

NDC Systems

4

NDC Systems hereby agrees to comply with the commitments described in this letter and agrees to incorporating the commitments into a Confirmatory Order Modifying License that will be effective upon issuance. I recognize that by signing below, NDC consents to the issuance of a Confirmatory Order Modifying License with the commitments described on Pages 1 and 2 of this letter and, by doing so, pursuant to 10 CFR 2.202(a)(3), NDC will not have a right to request a hearing on all or any part of the Order.

Daniel Fishman, President
NDC Systems

Date _____

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