



# energy fuels nuclear, inc.

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November 22, 1996

U.S. Nuclear Regulatory Commission  
Attention: Document Control Desk  
Washington, DC 20555

Re: Response to Notice of Violation dated November 1, 1996  
Energy Fuels Nuclear, Inc.  
License No. SUA-1558  
Docket No. 40-9024

Dear Sir/Madam:

Pursuant to the provisions of 10 CFR 2.201 Energy Fuels Nuclear, Inc. ("EFN") submits this response to the Notice of Violation ("NOV") sent with the U.S. NRC letter dated November 1, 1996, to EFN regarding Source Material Possession-Only License SUA-1558. To facilitate review, EFN has arranged the responses in the same sequence as questions in the NOV.

**1. The reason for the violation, or, if contested, the basis for disputing the violation.**

In a letter dated August 16, 1995, the U.S. Nuclear Regulatory Commission ("NRC") approved EFN's license renewal request and revised the surety amount to \$138,00.00. NRC set the surety in the license condition at this value based on rounding up the surety estimated in the Annual Report to the State of Wyoming Department of Environmental Quality ("WDEQ") for the period of October 16, 1993 to October 15, 1994. The surety amount was later revised to \$137,911.80, in a letter from the NRC to EFN dated November 1, 1995.

Subsequently, EFN updated the surety estimate in the Annual Report to the State of Wyoming for the period October 16, 1994 to October 15, 1995. On July 22, 1996, EFN received a telephone call from Harold E. LeFevre of the NRC staff regarding the annual surety update for License SUA-1558. In a follow-up letter from EFN to the NRC on July 22, 1996, EFN outlined the annual reporting, surety renewal, and review procedures we follow for the State of Wyoming. EFN also had a conference call with the NRC staff member on August 6.

License Condition No. 12 requires EFN to incorporate State review into annual surety updates. Given that State annual reports and inspections typically are completed in the fall, for the sake of efficiency, EFN has submitted annual surety updates to the NRC in late fall. We understand that this approach is acceptable to NRC. Due to scheduling changes by WDEQ and multiple State reviews of the surety during 1995, EFN overlooked sending a copy of the 1994-95 Annual Reports for WDEQ to the NRC. As noted on NRC Enclosure 2, this was submitted on August 6, 1996. NRC will use that report to conduct its 1996 annual surety review. At the time of our August 6 conference call with NRC staff, the bond in force was, in fact, in excess of that required by the license. EFN had not failed to maintain records required by the license, and the inadvertent oversight in not submitting a copy of the 1994-95 information had no safety or

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environmental significance. As this was an isolated incident, this oversight does not demonstrate a programmatic weakness in administration of this license. In fact, based on NRC NUREG-1600, the severity of this violation seems below those listed as Level IV violations, and is minor enough to have been noted as a Non-Cited Violation ("NCV"). Finally, because of the timing of the surety approval letter from NRC on November 1, 1995, and miscommunication between the NRC and EFN staffs, EFN was under the understanding that the \$137,911.80 surety amount was current with the NRC.

**2. The corrective steps that have been taken and the results achieved.**

On August 6, 1996, EFN submitted a letter containing the 1994-1995 Annual Report, supporting documentation, and other surety-related correspondence to the NRC. The submittal provided the NRC with the documentation necessary for the NRC to conduct its 1996 annual surety review.

On September 24, 1996, the NRC submitted a letter to EFN accepting the surety increase from \$137,911.80 to \$142,890.00, based on the State reporting period of October 16, 1994 to October 15, 1995.

**3. The corrective steps that will be taken to avoid further violations.**

To avoid future violations of this nature, EFN has implemented new in-house annual reporting procedures which consist of the following steps:

1. Preparation of the Reno Creek Project Annual Report for Mining Permit No. 479, including supporting documentation showing a breakdown of the surety costs and the basis for the cost estimates with adjustments for inflation, maintenance of minimum 15 percent contingency, changes in engineering plans, activities performed, and any other conditions affecting estimated costs for site closure, is the responsibility of the Project Geologist for the Reno Creek Project.
2. Upon completion of the Annual Report and surety adjustment calculations by the Project Geologist, all documentation and State correspondence will be submitted to the EFN Environmental Manager for final review and signature.
3. The Environmental Manager will submit the Annual Report and surety calculation documentation to the State of Wyoming for review and approval. This series of steps is typically completed annually by mid-November.
4. Upon completion of steps (1) through (3), the Environmental Manager will provide to the NRC copies of surety-related correspondence submitted to the State, a copy of the State's surety review, and a final approved surety arrangement in accordance with rules and provisions of License Condition No. 12. This will serve as the annual surety update submittal to the NRC.

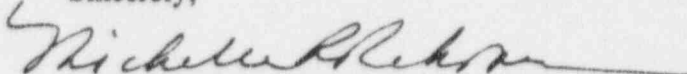
**5. The date when full compliance will be achieved.**

On September 24, 1996, the NRC sent a letter to EFN accepting EFN's proposed annual surety increase from \$137,911.80 to \$142,890.00 for the State reporting period of October 16, 1994 to October 15, 1995. As stated above, this acceptance constitutes full compliance.

On September 27, 1996, EFN submitted a letter to NRC enclosing two copies of the Annual Report for Mining Permit No. 479 to the State of Wyoming for the period from October 16, 1995 to October 15, 1996. Following the review of the Annual Report and an annual project site inspection, the State will notify EFN of the surety amount required to be maintained for the upcoming year, and this information will then be forwarded to the NRC. This surety amount approved by the State of Wyoming will be for the reporting period of October 16, 1996 to October 15, 1996. EFN will provide this documentation in late 1996, several months prior to the required May 16, 1996 surety update.

By way of clarification, we note that Enclosure 2 of the November 1, 1996 NRC letter to EFN from NRC, "Chronology of More Recent Surety-Related Events; EFN, Reno Creek, Wyoming In-Situ Leach Project" includes five items of correspondence which appear unrelated to surety. These are letters concerning the suspension and restart of the NRC review of the commercial Source Material License application for the Reno Creek ISL Project. We assume these were included as information items only and do not pertain to surety. As always, I can be reached at 303-899-5647.

Sincerely,



Michelle R. Rehmann  
Environmental Manager

MRR/pl

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