

not been involved in any activities at any facility that is subject to NRC regulations. Mr. Fernandez also indicated that, as of the date of the ADR meeting, he has no intention of working or seeking employment in any activities or at any facility subject to NRC regulations, and that he will not seek employment requiring his participation in NRC-regulated activities before June 30, 2008.

3. Mr. Fernandez agreed that, should he seek employment with an entity involved in NRC-regulated activities and requiring unescorted access authorization prior to June 30, 2010, he will provide the NRC with a letter discussing the steps he has taken to assure his understanding of the importance of completeness and accuracy of information at facilities subject to NRC regulation. In addition, Mr. Fernandez agreed to provide any such future employer with a copy of this Confirmatory Order. Mr. Fernandez further agreed he will make himself available to participate in training to discuss lessons learned from this matter and the importance of completeness and accuracy of condition reports and other internal documents.

4. The NRC concluded that Mr. Fernandez's agreement not to seek employment with an entity involved in NRC-regulated activities and requiring unescorted access authorization until after June 30, 2008, and his agreement, should he seek employment with such an entity prior to June 30, 2010, to provide to the NRC a letter discussing the steps he has taken to assure his understanding of NRC requirements in effect at the time, is sufficient to address all Agency concerns regarding his involvement in the matter discussed in the NRC's letter of May 30, 2007.

5. In consideration of the above, the NRC agreed to forego issuance of a Notice of Violation or other enforcement action in this matter.

6. The NRC and Mr. Fernandez agreed that the above elements will be incorporated into a Confirmatory Order.

7. Mr. Fernandez agreed to waive the right to request a hearing regarding all or any part of the Confirmatory Order.

#### IV

Because Mr. Fernandez has agreed to take actions to address NRC concerns, as set forth in Section III above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that Mr. Fernandez's commitments set forth in section V below are acceptable and necessary, and I conclude that with these commitments the public health and safety are reasonably assured. In view of the

foregoing, I have determined that public health and safety require that Mr. Fernandez's commitments be confirmed by this Order. Based on the above and Mr. Fernandez's consent, this Order is immediately effective upon issuance.

#### V

Accordingly, pursuant to sections 104, 161b, 161i, 161o, and 186 of the Atomic Energy Act of 1954, as amended, the Commission's regulations in 10 CFR 2.202 and 10 CFR part 50, *It is hereby ordered*, effective immediately, that:

1. Mr. Fernandez will not seek employment requiring his participation in NRC-regulated activities before June 30, 2008.

2. Should Mr. Fernandez seek employment with an entity involved in NRC-regulated activities and requiring unescorted access authorization before June 30, 2010, he will provide the NRC with a letter discussing the steps he has taken to assure he understands the importance of providing complete and accurate information at facilities subject to NRC regulation.

3. Mr. Fernandez will provide any future employer engaged in NRC-regulated activities with a copy of this Confirmatory Order.

4. Should Mr. Fernandez resume employment in NRC-regulated activities, he will make himself available to participate in training to discuss lessons learned from this matter and the importance of preparing complete and accurate condition reports and other internal documents.

The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by Mr. Fernandez of good cause.

#### VI

Any person adversely affected by this Confirmatory Order, other than Mr. Luis Fernandez, may request a hearing within 20 days of its issuance. 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 20555-0001, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555-0001. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; to the Assistant General Counsel

for Materials Litigation and Enforcement, at the same address; to the Regional Administrator, NRC Region II, 61 Forsyth Street SW., Suite 23T85, Atlanta, GA 30303-8931; and to Mr. Luis Fernandez. Because of the possible disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov) and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). If a person other than Mr. Fernandez requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this 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 hearing. 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 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 20 days from the date of this 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.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 22nd day of January 2008.

For the Nuclear Regulatory Commission.

**Victor M. McCree,**

*Acting Regional Administrator.*

[FR Doc. E8-1785 Filed 1-30-08; 8:45 am]

BILLING CODE 7590-01-P

#### NUCLEAR REGULATORY COMMISSION

[IA-07-028]

#### In the Matter of Mr. William Johns; Confirmatory Order (Effective Immediately)

#### I

Mr. William Johns is the former Security Manager at the Turkey Point Nuclear Plant (Turkey Point) operated by Florida Power & Light Company (FPL

or Licensee). FPL holds License No. DPR-31 and DPR-41, issued by the Nuclear Regulatory Commission (NRC or Commission) on July 19, 1972, and April 10, 1973, respectively, pursuant to 10 CFR part 50. The license authorizes the operation of Turkey Point, Units 3 & 4, in accordance with the conditions specified therein. Turkey Point is located on the Licensee's site in Florida City, Florida.

## II

In August 2005, a broken firing pin from a contingency response weapon was discovered at FPL's Turkey Point facility. FPL conducted an investigation into the circumstances surrounding the broken pin. As the Security Manager at Turkey Point at that time, Mr. Johns was advised of the status and progress of the FPL investigation. Based on his understanding of the circumstances of the matter and his understanding of reporting requirements and guidelines, in approximately September 2005, Mr. Johns ensured or allowed the event to be documented into the plant security log at that time, and concluded that this incident would not be reported to the NRC in accordance with 10 CFR part 73, Appendix G.I.(a)(3).

## III

In February 2006, the NRC's Office of Investigations (OI) initiated an investigation into the circumstances surrounding the broken firing pin. Based on the OI investigation, the NRC reached a preliminary conclusion that Mr. Johns deliberately failed to make a one-hour report to the Commission of an event involving the interruption of normal operation of a licensed nuclear power reactor through the unauthorized use of or tampering with its machinery, components, or controls, including the security system. In this case, the tampering event involved the breaking of a firing pin for a contingency response weapon. As a result, the NRC concluded that Mr. Johns was in apparent violation of 10 CFR 50.5, in that his actions caused FPL to be in violation of 10 CFR part 73, Appendix G.I.(a)(3).

The results of the NRC's preliminary conclusion were provided to Mr. Johns by letter dated May 30, 2007. The NRC's letter informed Mr. Johns that the NRC was considering the apparent violation for escalated enforcement action in accordance with the NRC Enforcement Policy, and offered Mr. Johns a choice to: (1) Attend a Pre-decisional Enforcement Conference; (2) provide a written response; or (3) request ADR with the NRC in an attempt to resolve any disagreement on whether a

violation occurred, the appropriate enforcement action, and the appropriate corrective actions. In response, Mr. Johns requested ADR to resolve the matter. Mr. Johns and the NRC participated in an ADR session in Atlanta, Georgia, on September 11, 2007. As the result of the ADR session, Mr. Johns and the NRC reached a settlement agreement. The elements of the Agreement in Principle consisted of the following:

1. Mr. Johns disagreed with certain facts supporting a conclusion that he violated 10 CFR 50.5, and he denied that he engaged in any deliberate misconduct. At the ADR session, Mr. Johns elaborated on the circumstances surrounding his involvement in the apparent violation, in support of his view that his actions did not represent deliberate misconduct. In particular, Mr. Johns stated that his actions in not reporting the incident in accordance with 10 CFR part 73, Appendix G were consistent with his previous practice and experience with reporting such incidents, and the fact that the underlying issue did not appear to be a result of a malevolent intent. Mr. Johns further stated that his decision to enter the event in the plant security log, rather than make a one-hour report to the NRC, was consistent with his understanding of NRC guidance in Generic Letter 91-03, Reporting of Safeguards Events.

2. Mr. Johns indicated that since approximately February 2006, he has not been involved in any activities at any facility that is subject to NRC regulations. Mr. Johns also indicated that, as of the date of the ADR session, he had no intention of working or seeking employment in any activities or at any facility that is subject to NRC regulations, and that he would not seek employment requiring his participation in NRC-regulated activities before July 15, 2008.

3. Prior to seeking future employment in NRC-regulated activities, Mr. Johns will submit to the NRC a letter explaining the steps he has taken to assure he understands the NRC's security reporting requirements in effect at the time.

4. The NRC concluded that Mr. Johns' agreement to not seek employment requiring his participation in NRC-regulated activities until after July 15, 2008, and his agreement to provide the NRC a letter explaining the steps he has taken to ensure he understands the NRC's reporting requirements in effect at the time, is sufficient to address all Agency concerns regarding his involvement in the matter discussed in the NRC's letter dated May 30, 2007.

5. In consideration of the above, the NRC agreed to forego issuance of a Notice of Violation or other enforcement action in this matter.

6. The NRC and Mr. Johns agreed that the above elements will be incorporated into a Confirmatory Order.

7. Mr. Johns agreed to waive the right to request a hearing regarding all or any part of the Confirmatory Order.

## IV

Because Mr. Johns has agreed to take actions to address the NRC's concerns, as set forth in Section III above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that Mr. Johns' commitments set forth in Section V below are acceptable and necessary, and I conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Mr. Johns' commitments be confirmed by this Order. Based on the above and Mr. Johns' consent, this Order is immediately effective upon issuance.

## V

Accordingly, pursuant to Sections 104, 161b, 161i, 161o, and 186 of the Atomic Energy Act of 1954, as amended, the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, *It is hereby ordered*, effective immediately, that:

1. Mr. Johns will not seek employment requiring his participation in NRC-regulated activities before July 15, 2008.

2. Prior to seeking future employment in NRC-regulated activities, Mr. Johns will submit to the NRC a letter explaining the steps he has taken to ensure he understands the NRC's security reporting requirements in effect at the time.

The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by Mr. Johns of good cause.

## VI

Any person adversely affected by this Confirmatory Order, other than Mr. William Johns, may request a hearing within 20 days of its issuance. 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 20555-0001, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S.

Nuclear Regulatory Commission, ATTN: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555-0001. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; to the Assistant General Counsel for Materials Litigation and Enforcement, at the same address; to the Regional Administrator, NRC Region II, 61 Forsyth Street, SW., Suite 23T85, Atlanta, GA 30303-8931; and to Mr. William Johns. Because of the possible disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov) and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). If a person other than Mr. Johns requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this 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 hearing. 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 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 20 days from the date of this 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.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 22nd day of January 2008.

For the Nuclear Regulatory Commission.

**Victor M. McCree,**

*Acting Regional Administrator.*

[FR Doc. E8-1795 Filed 1-30-08; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

[Docket No.: 070-3103]

### **Notice of Consideration of Approval of Application Regarding Proposed Corporate Restructuring for Louisiana Energy Services National Enrichment Facility In Lea County, New Mexico, and Conforming Amendment, and Opportunity To Provide Comments and Request a Hearing**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of application for approval of an indirect license transfer, and opportunity to request a hearing and provide written comments.

**DATES:** A request for a hearing must be filed by February 20, 2008.

#### **FOR FURTHER INFORMATION CONTACT:**

Timothy C. Johnson, Sr. Project Manager, Enrichment and Conversion Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 492-3121; Fax number: (301) 492-3359; e-mail: [tcj@nrc.gov](mailto:tcj@nrc.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Introduction**

The U.S. Nuclear Regulatory Commission (the Commission or NRC) is considering an application for approval of an indirect transfer of control regarding Special Nuclear Material License No. SNM-2010. This license was issued on June 23, 2006, to Louisiana Energy Services, L.P. (the Licensee), for its National Enrichment Facility (NEF), located in Lea County, New Mexico. The license authorizes the Licensee to construct and operate a gas centrifuge uranium enrichment facility.

The application now being considered is dated October 19, 2007. The Licensee proposes to (1) restructure itself from a Limited Partnership (LP) to a Limited Liability Company (LLC); and (2) reorganize the ownership arrangement of Urenco Deelnemingen BV (UDE), a current limited partner of the Licensee. No physical changes to the NEF or operational changes are being proposed. An NRC administrative review, documented in an e-mail sent to the Licensee on November 7, 2007, found the application acceptable to begin a more detailed technical review. If the application is granted, the license would be amended for administrative purposes to reflect the transfer, by replacing references to Louisiana Energy Services, L.P., in the license with

references to Louisiana Energy Services, L.L.C.

Pursuant to Title 10 of the Code of Federal Regulations (CFR), section 70.36, no license granted under 10 CFR part 70, and no right thereunder to use special nuclear material, shall be transferred, assigned, or in any manner disposed of, directly or indirectly, through transfer of control of any license to any person unless the Commission shall, after securing full information, find that the transfer is in accordance with the Atomic Energy Act (AEA), and gives its consent in writing. The Commission will approve an application for the indirect transfer of a license, if the Commission determines that the proposed restructuring and reorganization will not affect the qualifications of the Licensee to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

If the October 19 application is granted, the license would be amended to reflect the Licensee's new status as an LLC, and UDE's reorganized ownership. Before such a license amendment is issued, the NRC will have made the findings required by the AEA and NRC's regulations. These findings will be documented in a Safety Evaluation Report. An Environmental Assessment (EA) will not be performed because, pursuant to 10 CFR 51.22(c)(21), license transfer approvals and associated license amendments are categorically excluded from the requirement to perform an EA.

##### **II. Opportunity to Request a Hearing**

Within 20 days from the date of publication of this notice, any person(s) whose interest may be affected and who desires to participate as a party must file a request for a hearing. The hearing request must include a specification of the contentions that the person seeks to have litigated in the hearing, and must be filed in accordance with the NRC E-filing rule, which the NRC promulgated in August 2007 (72 FR 49139; August 28, 2007). The E-Filing rule requires participants to submit and serve 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 a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at [HEARINGDOCKET@NRC.GOV](mailto:HEARINGDOCKET@NRC.GOV), or by