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IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present pursuant to 10 CFR 50.12(a)(2)(v), in that the exemption would provide only temporary relief from the applicable regulations, and the licensee has made good faith efforts to comply with the regulations. Therefore, the Commission hereby grants EOI, specifically for GGNS, a one-time scheduler exemption from the requirements to conduct an exercise of its onsite and offsite emergency plans every 2 years with full-participation by each offsite authority having a role under the plan as required by 10 CFR part 50, Appendix E, sections IV.F.2.b. and c. To allow flexibility, should it be necessary, the exemption is granted to permit conduct of the full-participation exercise before the end of the third quarter of 2002, with the understanding that it should be conducted as close as practical to the licensee's proposed date of the week of March 4, 2002.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (66 FR 64480).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 20th day of December, 2001.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

Docket No. 71-0122, Approval No. 0122,EA-01-164J

In the Matter of J.L. Shepherd & Associates San Fernando, CA; Confirmatory Order Relaxing Order (Effective Immediately)

I

J. L. Shepherd & Associates (JLS&A or Approval Holder) was the holder of Quality Assurance (QA) Program Approval for Radioactive Material Packages No. 0122 (Approval No. 0122), issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 71, subpart H. The approval was previously issued pursuant to the QA requirements of 10 CFR section 71.101. QA activities authorized by Approval No. 0122 include: design, procurement, fabrication, assembly, testing, modification, maintenance, repair, and use of transportation packages subject to the provisions of 10 CFR part 71. Approval No. 0122 was originally issued January 17, 1980. Revision No. 6 was issued December 6, 2001, with an expiration date on November 30, 2006. In addition to having a QA program approved by the NRC to satisfy the provisions of 10 CFR part 71, subpart H, to transport or deliver for transport licensed material in a package, JLS&A is required by 10 CFR part 71, subpart C, to have and comply with the package's Certificate of Compliance (CoC) issued by the NRC. Based on the JLS&A failure to comply with 10 CFR part 71, QA Program Approval No. 0122 was withdrawn by an immediately effective NRC Order, dated July 3, 2001.

II

By letter dated August 17, 2001, JLS&A responded to the U. S. Nuclear Regulatory Commission's July 2001 Order. In a August 16, 2001, response, appended to the August 17, 2001, letter, JLS&A requested that provisions of the Order be relaxed based on a showing of good cause. Specifically, JLS&A requested interim relief from the July 2001 Order based on JLS&A's proposed Near-Term Corrective Action Plan (NTCAP), to allow 68 shipments to 16 customers, in Department of Transportation specification packaging designated as 20WC. The NRC staff reviewed JLS&A's relief request to determine, among other things, whether the requested relief would be consistent with assurances that public health and safety are maintained. As a result the NRC issued a Confirmatory Order

Relaxing Order dated September 19, 2001, which relaxed the July 3, 2001, Order to grant interim relief to allow 68 shipments to 16 customers in 20WC packages in accordance with JLS&A's NTCAP, through March 2002, provided certain commitments were completed.

A condition of the September 19, 2001, Order was that JLS&A hold all shipments until NRC has completed an inspection which confirms JLS&A's satisfactory completion of the identified commitments. Subsequent to certifications under oath and affirmation from both J. L. Shepherd and the independent auditor that the conditions of the Confirmatory Order have been completed, the NRC conducted an inspection at the JLS&A facility on November 13-15, 2001. As a result of the inspection findings, the inspection team authorized JLS&A to commence the shipments in accordance with the Confirmatory Order. By letter dated November 20, 2001, NRC staff provided a written confirmation of the inspection teams authorization.

III

By letters dated December 7 and 11, 2001, JLS&A again requested that provisions of the July 3, 2001, Order be relaxed based on a showing of good cause. Specifically, JLS&A requested interim relief to ship an irradiator to Surry Nuclear Power Station and return the replaced unit to JLS&A's facility in California. JLS&A's proposed to use the NTCAP specified in the September 19, 2001, Confirmatory Order to allow these two shipments in the Department of Transportation specification packaging designated as 20WC. These shipments are necessary for Surry Power Station to continue to provide adequate quality control on instrumentation used for all required radiation surveys in support of plant operations. Therefore, the two shipments are in the best interest of public health and safety.

With respect to the substantive concerns identified by the staff in the July 2001 Order, on December 7 and 11, 2001, JLS&A agreed to take the following corrective actions listed below, before it makes any of the proposed shipments to or from Surry Power Station in accordance with the NTCAP:

1. a. JLS&A will use the implementing procedures for the 1995 QA program plan, as revised, and the NTCAP to complete an inspection of the 20WC packages involved in the Surry shipment. The inspection will confirm that the packages are in conformance with 49 CFR 178.362, "Specification 20WC Wooden Protective Jacket." Each inspection will include, at a minimum,

actual physical measurements, and visual inspections for damage, corrosion, or other potentially unacceptable conditions;

b. JLS&A will document the results of each inspection in separate reports approved by the QA Administrator and prepared in accordance with the revised QA Program Plan and implementing procedures. The report will include the list of attributes verified, the acceptance criteria, and the results for each attribute;

2. JLS&A will use only JLS&A's staff, contractors, and sub-contractors, trained in the NTCAP, the revised QAPP and implementing procedures for conducting the inspections listed in the above condition; and,

3. JLS&A will not make the initial shipment without certification by the independent auditor that the two conditions listed above have been completed. JLS&A will provide NRC with this certification prior to any shipment.

By its letter of December 11, 2001, JLS&A consented to issuance of this Confirmatory Order granting interim relief from the July 2001 Order subject to the commitments, (as described in Section IV below), agreed that this Confirmatory Order is to be effective upon issuance, and agreed to waive its right to a hearing on this action. Implementation of these commitments will provide assurance that sufficient resources will be applied to the QA program, and that the program will be conducted safely and in accordance with NRC requirements.

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

IV

Accordingly, pursuant to Sections 62, 81, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Section 2.202 and 10 CFR Parts 71, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT THE JULY 3, 2001, ORDER IS RELAXED TO GRANT INTERIM RELIEF TO ALLOW A SHIPMENT TO, AND A SHIPMENT FROM, SURRY POWER STATION IN 20 WC PACKAGES IN ACCORDANCE WITH JLS&A'S NTCAP, AS

REQUESTED BY LETTERS DATED DECEMBER 7 and 11, 2001, PROVIDED:

1. a. JLS&A will use the implementing procedures for the 1995 QA program plan, as revised, and the NTCAP to complete an inspection of the 20WC packages involved in the Surry shipment. The inspection will confirm that the packages are in conformance with 49 CFR 178.362, "Specification 20WC Wooden Protective Jacket." Each inspection will include, at a minimum, actual physical measurements, and visual inspections for damage, corrosion, or other potentially unacceptable conditions;

b. JLS&A will document the results of each inspection in separate reports approved by the QA Administrator and prepared in accordance with the revised QAPP and implementing procedures. The report will include the list of attributes verified, the acceptance criteria, and the results for each attribute;

2. JLS&A will use only JLS&A's staff, contractors, and sub-contractors, trained in the NTCAP, the revised QAPP and implementing procedures for conducting the inspections listed in the above condition; and,

3. JLS&A will not make the initial shipment without certification by the independent auditor that the two conditions listed above have been completed. JLS&A will provide NRC with this certification prior to any shipment.

The Director, Office of Enforcement or Office of Nuclear Material Safety and Safeguards, may in writing, relax or rescind this Confirmatory Order upon demonstration of good cause by the Approval Holder.

V

In accordance with 10 CFR section 2.202, any person, other than JLS&A, adversely affected by this Confirmatory Order 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, 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: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies of the hearing request also should be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Director, Office of Nuclear Material Safety and Safeguards

at the same address, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011, and to the Approval Holder. If such person requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR section 2.714(d).

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 IV above shall be final 20 days from the date of this Confirmatory Order without further Order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in section IV shall be final when the extension expires if a hearing request has not been received. A request for hearing shall not stay the immediate effectiveness of this confirmatory order.

Dated this 13th day of December, 2001.

For the Nuclear Regulatory Commission.

Frank J. Congel,

Director, Office of Enforcement.

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-498 and 50-499; License Nos. NPF-76 and NPF-80]

South Texas Project Nuclear Operating Company et al., (South Texas Project Electric Generating Station, Unit Nos. 1 and 2); Order Approving Transfer of Licenses and Conforming Amendments

I

Reliant Energy Incorporated (Reliant),¹ the City Public Service Board of San Antonio (CPS), Central Power and Light Company (CPL), and the City of Austin, Texas (COA) are the licensed owners, and South Texas Project Nuclear Operating Company (STPNOC)

¹Reliant was formerly known as Houston Lighting & Power Company (HL&P). HL&P changed its name to Reliant Energy Incorporated in 1999.