UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
2100 RENAISSANCE BLVD.
KING OF PRUSSIA, PA 19406-2713

October 11, 2016

EA-15-230

Mr. Andrew N. Bolt
President
Tetra Tech EC, Inc.
1000 The American Road
Morris Plains, New Jersey 07950

SUBJECT: CONFIRMATORY ORDER RELATED TO THE NRC OFFICE OF INVESTIGATIONS REPORT NO. 1-2014-018

Dear Mr. Bolt:

The enclosed Confirmatory Order is being issued to Tetra Tech EC, Inc. (TtEC) as a result of a successful Alternative Dispute Resolution (ADR) session. The enclosed commitments were made by you as part of a settlement agreement between TtEC and the U.S. Nuclear Regulatory Commission (NRC) concerning a violation of NRC requirements, as described in the enclosure to our letter dated July 28, 2016 (ML16210A228).[1]

In the July 28, 2016, letter, the NRC issued a Severity III Notice of Violation and a $7,000 Proposed Civil Penalty for a deliberate violation of 10 CFR 20.1501(a) which requires, in part, that licensees make or cause to be made, surveys of areas that were reasonable to evaluate concentrations and potential radiological hazards of residual radioactivity. This letter provided you with the option of denying the violation or requesting ADR with the NRC in an attempt to resolve the issue.

In response to the July 28, 2016, letter, you requested ADR. An ADR mediation session was held on September 7, 2016, and a preliminary settlement agreement was reached. The elements of the preliminary agreement were formulated and agreed to at the mediation session. Consistent with the purposes of ADR, you and the NRC acknowledged that the session was not for the purposes of reaching any conclusions regarding any facts or circumstances discussed in our letter dated July 28, 2016. At the ADR mediation session, you agreed that a Confirmatory Order would be issued in settlement of a disputed claim. In light of the corrective actions you took or agreed to take, as described in the Confirmatory Order (Enclosure 1), the NRC is satisfied that its concerns will be addressed by making your commitments legally binding. As evidenced by your signed "Consent and Hearing Waiver Form" (Enclosure 2), dated September 26, 2016, you agreed to the issuance of the Confirmatory Order.

[1] Designation in parentheses refers to an Agency-wide Documents Access and Management System (ADAMS) accession number. Unless otherwise noted, documents referenced in this letter are publicly-available using the accession number in ADAMS.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Confirmatory Order shall be subject to criminal prosecution, as set forth in that section. Violation of this Confirmatory Order may also subject the person to civil monetary penalties.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, along with its enclosures, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at http://www.nrc.gov/reading-rm/adams.html. The Confirmatory Order will be published in the Federal Register. The NRC also publishes Confirmatory Orders on its web site under Significant Enforcement Actions at http://www.nrc.gov/about-nrc/regulatory/enforcement.html.

Sincerely,

Daniel H. Dorman
Regional Administrator

Docket No.: 03038199
License No.: 29-31396-01

Enclosures:
1. Confirmatory Order
2. Consent and Hearing Wavier

cc w/enclosures: Steven R. Adams, CHP, Radiation Safety Officer
State of California

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of:	)	
	)	**Docket No. 03038199**
TETRA TECH EC, INC.	)	
	)	**License No. 29-31396-01**
	)	
	)	**EA-15-230**

CONFIRMATORY ORDER
(EFFECTIVE IMMEDIATELY)

I

Tetra Tech EC, Inc. (TtEC) is the holder of service provider License No. 29-31396-01 issued by the U.S. Nuclear Regulatory Commission (NRC) pursuant to Parts 30, 40, and 70 of Title 10 of the *Code of Federal Regulations* (10 CFR) on March 2, 2010, and amended on January 28, 2015. The license authorizes the operation of Tetra Tech EC, Inc. in accordance with conditions specified therein. TtEC is headquartered in Morris Plains, New Jersey.

This Confirmatory Order is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on September 7, 2016. The violation as documented in the NRC letter dated July 28, 2016 (ML16210A228),[1] to TtEC occurred sometime between November 11, 2011, and June 4, 2012. As of the date of the issuance of this Confirmatory Order, the NRC is not aware of any subsequent willful violations of NRC regulations by TtEC employees since June 4, 2012. TtEC remains in good standing with respect to the terms and conditions of its NRC license.

1 Designation in parentheses refers to an Agency-wide Documents Access and Management System (ADAMS) accession number. Unless otherwise noted, documents referenced in this letter are publicly-available using the accession number in ADAMS

II

On April 29, 2014, the NRC Office of Investigations (OI) began an investigation (OI Case No. 1-2014-018) of TtEC activities at the U.S. Navy's Hunters Point Naval Shipyard (HPNS). The investigation was conducted to determine whether employees of TtEC deliberately falsified soil sample surveys from the area referred to as 'Parcel C' at HPNS in San Francisco, California. Based on the evidence developed during its investigation, OI substantiated that a Radiation Control Technician (RCT) and a Radiation Task Supervisor (RTS) deliberately falsified soil sample records by taking soil samples from areas not designated as part of the target sample area and by completing chain-of-custody forms with inaccurate information. The NRC completed its investigation on September 15, 2015.

In a letter to TtEC dated February 11, 2016, (ML16042A074) the NRC concluded that based on the evidence developed during the investigation, one apparent violation was identified and was being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The apparent violation involved TtEC's failure to make or cause to be made, surveys of areas that were reasonable to evaluate concentrations and potential radiological hazards of residual radioactivity in accordance with 10 CFR 20.1501(a). In response to the NRC's letter, TtEC provided two written responses in letters dated March 15, 2016 (ML16090A220) and March 22, 2016, (ML16090A318).

In the July 28, 2016, letter, the NRC issued a Severity Level III Notice of Violation (NOV) and a $7,000 Proposed Civil Penalty to TtEC. In response to the NRC's letter, TtEC requested the use of the NRC's ADR process to resolve the issue.

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On September 7, 2016, the NRC and TtEC met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement on resolving any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

III

During the ADR mediation session, TtEC and the NRC reached a preliminary settlement agreement. The elements of the agreement, as signed by both parties, consisted of the following:

1. In consideration of the following actions, the NRC agrees not to issue the proposed civil penalty ($7,000) relating to the NOV (Case No. EA-15-230, Office of Investigations Report No. 1-2014-018), dated July 28, 2016.

2. Within 180 days of the effective date of the Confirmatory Order, TtEC will discuss during one of its quarterly calls with its employees the facts and lessons-learned from the event that gave rise to the Confirmatory Order.

    a. This discussion will emphasize the importance of TtEC employees not engaging in willful activities in violation of NRC rules and regulations.

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b. As part of this discussion, TtEC employees will be allowed to ask follow-up questions and to provide feedback.

c. Within 210 days of the effective date of the Confirmatory Order, TtEC will affirm in writing to the NRC Region I Director, Division of Nuclear Materials Safety that said discussion occurred. TtEC will make available for one year after the date of this affirmation for NRC inspection any materials distributed to employees as part of said discussion.

3. Within 270 days of the effective date of the Confirmatory Order, TtEC will conduct refresher training regarding NRC requirements for all TtEC employees engaged in licensed activities. Thereafter, TtEC will conduct initial training of any new TtEC employees prior to engagement in licensed activities.

a. Within 300 days of the effective date of the Confirmatory Order, TtEC shall provide a copy of the refresher training documentation to the NRC Region I Director, Division of Nuclear Materials Safety.

b. The training must, at a minimum, include the following:

i. Awareness and understanding of NRC regulatory requirements, including the deliberate misconduct rule;

ii. Compliance with licensee procedures as they relate to NRC-licensed activities; and

iii. Understanding of signature authority.

c. Within 30 days following the completion of the refresher training, TtEC will affirm in writing to the NRC Region I Director, Division of Nuclear Materials Safety, that all TtEC employees then engaged in licensed activities have been trained.

d. For a period of five years following the effective date of the Confirmatory Order, TtEC will conduct on an annual basis the refresher training for all individuals engaged in licensed activities.

e. TtEC will maintain documentation for each refresher training session conducted. The training documentation will include a summary of the contents of the training and the employees in attendance. The training documentation will be maintained for one year after each refresher training session and will be made available for NRC inspection upon request.

4. Within 360 days of the effective date of the Confirmatory Order, TtEC will conduct an independent, third-party assessment of all areas involving NRC-licensed activities to assess TtEC's safety culture.

a. Within 180 days of the effective date of the Confirmatory Order, the independent assessor and his or her qualifications will be submitted by TtEC to the NRC Region I Director, Division of Nuclear Materials Safety.

b. The assessment shall include a large enough sample size of TtEC employees potentially involved in NRC-licensed activities so as to yield statistically-significant results.

c. Within 120 days following the completion of the independent assessment, TtEC will:

   i. Communicate to the NRC Region I Director, Division of Nuclear Materials Safety, the availability of the assessment for NRC inspection.

   ii. Communicate to all TtEC employees the results of the assessment.

   iii. Evaluate the results of the assessment and initiate corrective actions as appropriate.

d. All documentation related to the independent assessment, including any documentation related to TtEC's evaluation of the assessment, will be kept for a period of three years following the completion of the independent assessment and will, for that duration, be made available to the NRC for inspection upon request.

5. Within 180 days of the effective date of the Confirmatory Order, TtEC will send a letter to the Navy that contains a copy of the NOV and a copy of the Confirmatory Order so that the Navy is fully informed of the NRC actions.

a. TtEC will also send a copy of this letter to the State of California Department of Public Health and to the NRC Region I Director, Division of Nuclear Materials Safety.

6. For a period of three years following the effective date of the Confirmatory Order, TtEC will commit to using a third party to perform quality control on any future projects at Hunters Point.

   a. In those circumstances, TtEC will notify the NRC of the identity of the third party that will perform quality control.

7. In the event of the transfer of the NRC license by TtEC to another entity, the commitments hereunder shall survive any transfer of ownership and will be binding on the new licensee.

On September 26, 2016, TtEC consented to issuing this Confirmatory Order with the commitments, as described in Section V below. TtEC further agreed that this Confirmatory Order is to be effective upon issuance and that it has waived its right to a hearing.

IV

Since TtEC has agreed to take additional actions to address NRC concerns, as set forth in Item III above, the NRC has concluded that its concerns can be resolved through issuance of this Confirmatory Order.

I find that TtEC's commitments as set forth in Section V 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 public health and safety require that TtEC's

commitments be confirmed by this Confirmatory Order. Based on the above and TtEC's consent, this Confirmatory Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

1. Within 180 days of the effective date of the Confirmatory Order, TtEC will discuss during one of its quarterly calls with its employees engaged in licensed activities the facts and lessons learned from the event that gave rise to this Confirmatory Order.

    a. TtEC will emphasize the importance of TtEC employees not engaging in willful activities in violation of NRC rules and regulations and will allow TtEC employees to ask follow-up questions and to provide feedback.

2. Within 210 days of the effective date of the Confirmatory Order, TtEC will affirm in writing to the NRC Region I Director, Division of Nuclear Materials Safety, that the quarterly call and discussion occurred.

3. TtEC will make available, for one year after the date of the affirmation that the quarterly call was completed, for NRC inspection any materials distributed to employees as part of the quarterly call and discussion.

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4. Within 270 days of the effective date of the Confirmatory Order, TtEC will conduct refresher training regarding NRC requirements for all TtEC employees engaged in licensed activities.

    a. TtEC will conduct initial training for any new TtEC employees prior to engagement in licensed activities.

    b. Within 300 days of the effective date of the Confirmatory Order, TtEC will provide a copy of the refresher training documentation to the NRC Region I Director, Division of Nuclear Materials Safety.

    c. TtEC will, at a minimum, include the following:

        i. Awareness and understanding of NRC regulatory requirements, including the deliberate misconduct rule;
        ii. Compliance with licensee procedures as they relate to NRC-licensed activities; and
        iii. Understanding of signature authority.

    d. Within 30 days following the completion of the refresher training, TtEC will affirm in writing to the NRC Region I Director, Division of Materials Safety, that all TtEC employees engaged in licensed activities have been trained.

e. For a period of five years following the effective date of the Confirmatory Order, TtEC will conduct annual refresher training for all individuals engaged in licensed activities.

f. TtEC will maintain documentation for each refresher training session conducted. The training documentation will include a summary of the contents of the training and the employees in attendance. The training documentation will be maintained for one year after each refresher training session and will be made available for NRC inspection upon request.

5. Within 360 days of the effective date of the Confirmatory Order, TtEC will conduct an independent, third-party assessment of all areas involving NRC-licensed activities to assess TtEC's safety culture.

a. Within 180 days of the effective date of the Confirmatory Order, the name of the independent assessor and his or her qualifications will be submitted by TtEC to the NRC Region I Director, Division of Nuclear Materials Safety.

b. TtEC will ensure that the assessment includes a large enough sample size of TtEC employees potentially involved in NRC-licensed activities so as to yield statistically-significant results.

c. Within 120 days following the completion of the independent assessment, TtEC will: (1) communicate to the NRC Region I Director, Division of Nuclear Materials

Safety, the availability of the assessment for NRC inspection; (2) communicate to all TtEC employees the results of the assessment; and (3) evaluate the results of the assessment and initiate corrective actions as appropriate.

d. All documentation (excluding privileged attorney-client communications and attorney work product) related to the independent assessment, including any documentation related to TtEC's evaluation of the assessment, will be kept for a period of three years following the completion of the independent assessment and will, for that duration, be made available to the NRC for inspection upon request.

6. Within 180 days of the effective date of the Confirmatory Order, TtEC will send a letter to the Navy that contains a copy of the NOV and a copy of the Confirmatory Order so that the Navy is fully informed of the NRC actions.

   a. Within 180 days of the effective date of the Confirmatory Order, TtEC will also send a copy of the letter referenced above to the State of California Department of Public Health and to the NRC Region I Director, Division of Nuclear Materials Safety.

7. For a period of three years following the effective date of the Confirmatory Order, TtEC will commit to using a third party to perform quality control on any future projects at HPNS.

a. In those circumstances when TtEC performs work at HPNS, TtEC will notify the NRC of the identity of the third party that will perform quality control.

8. In the event of the transfer of NRC License No. 29-31396-01 by TtEC to another entity, the commitments hereunder will survive any transfer of ownership and will be binding on the new licensee.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by TtEC of good cause.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this Confirmatory Order, other than Tetra Tech EC, Inc., may request a hearing within 30 days of the issuance date of this Confirmatory Order. 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 directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139; August 28, 2007), as amended by 77 FR 46562; August 3, 2012 (codified in pertinent part at 10 CFR part 2, Subpart C). The E-Filing process requires

participants to submit and serve all adjudicatory 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 an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at (301) 415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the

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E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange (EIE), users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene through the EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, Any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek

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assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html*, by e-mail at MSHD.Resource@nrc.gov, or by a toll-free call at (866) 672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants

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are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, participants are requested not to include copyrighted materials in their submission, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application.

If a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 C.F.R. 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue a separate Confirmatory Order designating the time and place of any hearing, as appropriate. 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 30 days after issuance 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 V shall be final when the extension expires if a hearing request has not been received.

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Dated at King of Prussia, Pennsylvania, this 11th day of October 2016

FOR THE NUCLEAR REGULATORY COMMISSION.

Daniel H. Dorman
Regional Administrator

CONSENT AND HEARING WAIVER FORM

Tetra Tech EC, Inc. hereby agrees to comply with the terms and conditions of Confirmatory Order arising out of an alternative dispute resolution process to be issued relating to enforcement action No. EA-15-230. The Confirmatory Order will be immediately effective upon its issuance. By signing below, Tetra Tech EC, Inc. consents to the issuance of the referenced Confirmatory Order, effective immediately upon its issuance and, by doing so, agrees to waive the right to request a hearing on all or any part of the Confirmatory Order.

Andrew N. Bolt
President
Tetra Tech EC, Inc.

September 26, 2016
Date

Last Revised or Reviewed – October 2010