

August 6, 2007

EA-07-166

Mr. Paul Skorohod
President/Radiation Safety Officer
PK Associates, Inc.
dba Briggs Engineering & Testing
P.O. Box 369
Rockland, MA 02370

SUBJECT: NOTICE OF VIOLATION (NRC Inspection Report No. 03037214/2007001)

Dear Mr. Skorohod:

This refers to an NRC inspection conducted at your Mashantucket, CT site on March 14-15, 2007, of activities authorized by the above listed NRC license. During the inspection, two apparent violations were identified involving failures to meet the requirements established by 10 CFR 30.34(i) and 10 CFR 71.5(a). The findings of the inspection were discussed with you during a preliminary inspection exit on March 19, 2007, and during a final exit on July 13, 2007. The apparent violations of NRC requirements were documented in an inspection report sent to you in a letter dated July 13, 2007.

In the July 13, 2007 letter, the NRC informed you that the apparent violation of 10 CFR 30.34(i) was being considered for escalated enforcement action, and therefore, the NRC was providing you an opportunity to attend a predecisional enforcement conference (PEC) or submit a written response. On July 20, 2007, Marie Miller of my staff confirmed via a telephone call that you did not wish to submit a response or participate in a PEC. In addition, on August 3, 2007, during a subsequent telephone call with Judith Joustra of my staff, you provided additional information regarding the second apparent violation described in the July 13, 2007, inspection report that involved a failure to block and brace a transport package of licensed materials in accordance with the requirements of 10 CFR 71.5(a). As a result of the additional information provided, namely, that the transport of the licensed materials occurred only within the site of authorized usage as identified on your NRC license, the NRC has determined that a violation of 10 CFR 71.5(a) did not occur.

Therefore, based on the results of the NRC inspection and subsequent information you provided, the NRC has determined that one violation of NRC requirements occurred. The violation is described in the enclosed Notice of Violation (Notice). This violation involved the failure to use two tangible barriers to secure nuclear gauges from unauthorized removal during periods when portable gauges were not under the control and constant surveillance of the licensee, in accordance with 10 CFR 30.34(i). Specifically, on March 14, 2007, a Troxler portable gauge was found unattended on top of a two foot wall, adjacent to a new road

construction project. The authorized user was observed around the corner of the building adjoining the new road, out of the direct line of sight to the gauge, leaving the gauge unattended for approximately ten minutes.

For this violation, the NRC considered that the gauge was left unattended at a construction site area for a short period of time; however, this violation could have resulted in the loss of a device containing radioactive material that would have been 1000 times the 10 CFR 20, Appendix C limit for americium-241. Therefore, in accordance with Supplement VI of the Enforcement Policy, the NRC has classified this violation at Severity Level III.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3,250 is considered for a Severity Level III violation. Since your facility has not been the subject of escalated enforcement action within the last two years or two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. Credit for corrective actions is warranted because your corrective actions were considered prompt and comprehensive. These corrective actions included training the two authorized users regarding the requirements for maintaining security of the gauge when being used at field locations.

Therefore, to encourage prompt and comprehensive correction of violations, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation without a civil penalty for the SL III violation. However, you should be aware that significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in the letter transmitting this Notice and our July 13, 2007, letter and inspection report. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-07-166," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region I, 475 Allendale Rd., King of Prussia, PA 19406, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). If you choose to provide additional information, to the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

Mr. Paul Skorohod

3

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov>.

Sincerely,

/RA/ Original Signed by Marc Dapas for

Samuel J. Collins
Regional Administrator

Docket No. 03037214
License No. 20-16401-03

cc:
State of Connecticut
State of Massachusetts

Mr. Paul Skorohod

3

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov>.

Sincerely,

/RA/ Original Signed by Marc Dapas for

Samuel J. Collins
Regional Administrator

Docket No. 03037214
License No. 20-16401-03

cc:

State of Connecticut
State of Massachusetts

DISTRIBUTION:

ADAMS (PARS)

SECY

CA

OEMAIL

OEWEB

L Reyes, EDO

WKane, DEDR

MVirgilio, DEDMRT

JLamb, OEDO

CCarpenter, OE

SMerchant, OE

SWoods, OE

BJones, OGC (Bradley)

JMoore, OGC

CMiller, FSME

GPangburn, FSME

JSchlueter, FSME

DRathbun, FSME

Enforcement Coordinators

RII, RIII, RIV

LLopez, OE

SMagruder, OE

EHayden, OPA

HBell, OIG

GCaputo, OI

DScrenci, PAO-RI

NSheehan, PAO-RI

BHolian, RI

MMiller, RI

KFarrar, RI

DHolody, RI

ADeFrancisco, RI

RSummers, RI

CO'Daniell, RI

SVillar, RI

RIDNMS_Mail

Region I OE Files (with concurrences)

SUNSI Review Complete: aep (Reviewer's Initials)

DOCUMENT NAME: PK Associates SL III, IV no CP.wpdC:\FileNet\ML072150138.wpd ADAMS Document Accession No.: ML072150138

After declaring this document "An Official Agency Record" it will be released to the Public.

To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure "E" = Copy with attachment/enclosure "N" = No copy

OFFICE	RI/ORA	RI/DNMS	RI/DNMS	RI/RC	RI/ORA
NAME	*RSummers	*MMiller	*BHolian	*KFarrar	*DHolody
DATE	08/06/07	08/06/07	08/06/07	08/06/07	08/06/07
OFFICE	RI/RA				
NAME	SCollins/MLD for				
DATE	08/06/07				

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

PK Associates, Inc.
Rockland , MA

Docket No. 03037214
License No. 20-16401-03
EA-07-166

During an NRC inspection conducted at your Mashantucket, CT site on March 14 - 15, 2007, for which an exit meeting was held on July 13, 2007, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 30.34 (i) requires that each portable gauge licensee use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

Contrary to the above, on March 14, 2007, the licensee failed to use a minimum of two independent physical controls that form tangible barriers to secure the portable gauge from unauthorized removal, whenever the portable gauge was not under the control and constant surveillance of an authorized user who performed work at the licensee's Mashantucket, CT site.

This is a Severity Level III violation (Supplement VI).

The NRC has concluded that information regarding the reasons for the violation, the corrective actions taken to correct the violation and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket in this letter and in Inspection Report No. 03037214/2007001 issued on July 13, 2007. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-07-166," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region I, 475 Allendale Rd., King of Prussia, PA 19406, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, any response which contests an enforcement action shall be submitted under oath or affirmation.

Your response, if you choose to submit one, will be placed in the NRC Public Document Room (PDR) and on the NRC Web site. To the extent possible, it should, therefore, not include any personal privacy, proprietary, or safeguards information so that it can be made publically available without redaction. However, if you find it necessary to include such information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 6th day of August 2007.