



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005

February 15, 2008

EA-07-277
EA-07-278

Western X-Ray Corporation
dba Westex Company
ATTN: Michael Lupo, RSO
P.O. Box 5587
Oxnard, California 93031

SUBJECT: NRC INSPECTION REPORT 150-00004/07-001 AND INVESTIGATION
REPORT NO. 4-2007-023 AND NOTICE OF VIOLATION

Dear Mr. Lupo:

This refers to the unannounced inspection conducted on April 23, 2007, at a temporary jobsite on Venoco's "Grace" offshore platform located in the Santa Barbara Channel off the coast of California in Federal waters, with continued in-office review through November 28, 2007. This inspection was an examination of activities conducted under the provisions of a general license authorized pursuant to 10 CFR 150.20 as they relate to safety and compliance with the Commission's rules and regulations, and with the conditions of Westex Company's Agreement State license (California License No. 5324-56). Within these areas, the inspection consisted of an examination of procedures and representative records, direct observation of radiographic operations, and interviews with personnel. The preliminary inspection findings were discussed with you at the conclusion of the onsite portion of the inspection. Follow-up telephone calls were conducted with you and/or Mrs. Ruth Lupo on April 26, 2007, and May 7, 15 and 23, 2007. As discussed with you during our follow-up telephone calls, the April 23 inspection identified issues that were of concern to us and, as a result, a Confirmatory Action Letter (CAL No. 4-07-001) was issued on May 18, 2007, to confirm specific actions you took to correct those issues. Subsequent to issuance of the CAL, the NRC conducted an investigation; consequently, further in-office reviews were required for the information obtained during that investigation. A final exit meeting was conducted telephonically with you on November 28, 2007, to discuss our findings.

During the final telephonic briefing, Westex Company was informed that the NRC was considering escalated enforcement for apparent violations involving: (1) the failure to use a certified radiographer during radiographic operations as required by 10 CFR 34.43(a)(1); and (2) the failure to ensure that a radiographer's assistant was wearing an alarm ratemeter during radiographic operations as required by 10 CFR 34.47(a). My staff also informed you that the NRC had sufficient information regarding the apparent violations and your corrective actions to make an enforcement decision without a written response from you or conducting a predecisional enforcement conference. You agreed that a written response or a predecisional enforcement conference was not needed. Therefore, our enforcement decisions are discussed below.

Based on the information developed during the inspection and investigation, and the information provided during the follow-up telephone calls conducted with you and/or Mrs. Ruth Lupo on April 26, and May 7, 15, and May 23, 2007, the NRC has determined that violations of NRC requirements occurred. As discussed with you on November 28, 2007, the violations involved: (1) the failure to use a certified radiographer during radiographic operations; and (2) the failure to ensure that a radiographer's assistant was wearing an alarm ratemeter during radiographic operations. These violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the subject inspection report.

The failure to have a certified radiographer onsite during radiographic operations is considered safety significant, as certified radiographers have undergone extensive testing to ensure that they are well trained and knowledgeable in radiation safety, and conducting radiographic operations without a certified radiographer could lead to unsafe working conditions. Additionally, the failure by radiography personnel to wear an alarm ratemeter during radiographic operations is considered safety significant, given that radiographic operations conducted without using the required alarm ratemeter could result in severe consequences should personnel unknowingly enter a high radiation field (e.g. a source failing to retract to the fully shielded position). Therefore, these violations have been categorized in accordance with the NRC Enforcement Policy at Severity Level III.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$6500 is normally considered for a Severity Level III violation. Because your facility has not been the subject of escalated enforcement actions within the last two inspections, the NRC considered whether credit would be warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. In evaluating your corrective actions, we noted that once the inspector informed you about your failure to comply with NRC requirements, Westex Company initiated prompt and comprehensive corrective actions in order to correct the violations. The corrective actions included: (1) immediately terminating radiographic operations on the offshore platform on April 23, 2007; (2) facilitating the certification of one radiographer initially, with the plan to facilitate certification of all radiography personnel; and (3) providing refresher training for all radiography personnel on the NRC requirement to wear an alarm ratemeter during radiographic operations. As a result, the NRC has determined that credit for *Corrective Action* is warranted.

Therefore, to encourage prompt and comprehensive correction of violations, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of these Severity Level III violations constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance was achieved is adequately addressed on the docket in Inspection Report 150-00004/07-001. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice. For your consideration and convenience, an excerpt from NRC Information

Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION," is enclosed.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure(s), and your response, should you decide to provide one, 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/pdr.html> or www.nrc.gov/reading-rm/adams.html. To the extent possible, any response provided by Westex Company should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information) The NRC also includes significant enforcement actions on its Web site at www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html.

Should you have any questions concerning this matter, please contact Richard Leonardi at (817) 860-8187 or Vivian Campbell at (817) 860-8287.

Sincerely,

/RA/

Elmo E. Collins
Regional Administrator

Docket No.: 150-00004
General License Pursuant To 10 CFR 150.20

Enclosures:

1. Notice of Violation
2. NRC Inspection Report 150-00004/07-001
3. Excerpt from NRC IN 96-28

cc w/enclosures 1&2:
California Radiation Control Program Director

EA 07-277
EA-07-278

DISTRIBUTION w/enclosures:
RIV Materials Docket File (5th Floor)

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w/enclosures 1&2 (via e-mail):

C Maier - MCM1	Vasquez - GMV
EECollins - EEC	R Leonardi - RAL
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M Herrera	V Campbell - VHC
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GMorell - GKM	Michele Burgess - MLB5
S. Merchant - OE	L. Sreenivas- OE

SUNSI Review Completed: ADAMS: Yes Initials: RL
 Publicly Available Non-Publicly Available Sensitive Non-Sensitive
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RIV:DNMS:NMIB	C:NMIB	C:NMLB	ACES	D:ACES/RC
RLeonardi	VHCampbell	JEWWhitten	MCMaier	KFuller
VHC for E	/RA/	/RA/	/RA/	/RA/
11/14/07	11/14/07	02/06/08	02/15/08	02/08/08
D:DNMS	RA			
LDWert	EECollins			
/RA/	/RA/			
02/11/08	02/15/08			

OFFICIAL RECORD COPY T=Telephone E=E-mail F=Fax

NOTICE OF VIOLATION

Western X-Ray Corporation
dba Westex Company
Oxnard, California

Docket No.150-00004
General License 150.20
EA-07-277; EA-07-278

During an NRC inspection and investigation, which concluded on November 28, 2007, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 150.20(b) provides, in part, that the general license provided in this section is subject to all the provisions of the Act, now or hereafter, and all applicable rules, regulations, and orders of the Commission including the provisions of subparts C through H of Part 34.

10 CFR 34.43(a)(1) in subpart D of Part 34, requires, in part, that a licensee may not permit any individual to act as a radiographer until the individual has received certification through a radiographer certification program by a certifying entity in accordance with the criteria specified in appendix A of 10 CFR Part 34.

Contrary to the above, on April 23, 2007, the licensee permitted an individual to act as a radiographer without the individual having received certification through a radiographer certification program by a certifying entity in accordance with the criteria specified in appendix A of 10 CFR Part 34. Specifically, the individual acting as the radiographer of record while performing industrial radiography on an offshore platform in Federal waters was not certified as a radiographer.

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

- B. 10 CFR 150.20(b) provides, in part, that the general license provided in this section is subject to all the provisions of the Act, now or hereafter, and all applicable rules, regulations, and orders of the Commission including the provisions of subparts C through H of Part 34.

10 CFR 34.47(a) in subpart D requires, in part, that the licensee not permit any individual to act as a radiographer or radiographer's assistant unless, at all times during radiographic operations, each individual wears on the trunk of the body, a direct reading dosimeter, an operating alarm ratemeter, and a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Accreditation Program processor.

Contrary to the above, on April 23, 2007, the licensee permitted an individual, who was not wearing an operating alarm ratemeter, to act as a radiographer's assistant during radiographic operations. Specifically, the individual acting as the assistant radiographer of record while performing industrial radiography on an offshore platform in Federal waters was not wearing an operating alarm ratemeter at all times during radiographic operations.

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

The NRC has concluded that information regarding the reason for these violations, the corrective actions taken and planned to be taken to correct the violations and prevent recurrence, and the date when full compliance was achieved, is adequately addressed on the docket in Inspection Report 150-00004/07-001. 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-07-277 and EA-07-278, 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 RIV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011-4005, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you choose to respond, your response 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 www.nrc.gov/reading-rm/pdr.html or www.nrc.gov/reading-rm/adams.html. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

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

Dated this 15th day of February 2008

U.S. Nuclear Regulatory Commission
Region IV

Docket No.: 150-00004
License No.: General License Pursuant to 10 CFR 150.20
Report No.: 150-00004/07-01
EA No.: 07-277; 07-278
Licensee: Western X-Ray Corporation dba Westex Company
Facility: Westex Company
Location: Oxnard, California
Dates: April 23 through November 28, 2007
Inspector: Richard A. Leonardi, Senior Health Physicist
Nuclear Materials Safety Branch A
Approved By: Vivian H. Campbell Chief
Nuclear Materials Safety Branch A
Attachment: Supplemental Inspection Information

EXECUTIVE SUMMARY

Western X-Ray Corporation dba Westex Company
NRC Inspection Report 150-00004/07-01

This was a routine, unannounced inspection of licensed activities involving the use of byproduct material for industrial radiography conducted under a general license pursuant to 10 CFR 150.20. The inspection was conducted at a temporary jobsite location (Venoco's "Grace" offshore oil and gas platform off the coast of California in the Santa Barbara Channel) in offshore Federal waters. The scope of the inspection was limited to the review of selected representative records and procedures, observations of activities, and discussions with licensee personnel involving the use of licensed material in offshore Federal waters. The April 23, 2007, inspection resulted in the issuance of a Confirmatory Action Letter (CAL No. 4-07-001) dated May 18, 2007. In addition, an investigation was performed by NRC's Office of Investigations, Region IV Field Office. This report describes the findings of the inspection and investigation.

Program Overview

Western X-Ray Corporation (Westex) is a nondestructive testing company with its corporate offices located in Oxnard, California. Westex was authorized to conduct industrial radiography operations under its State of California radioactive materials license 5324-56. Westex was also authorized to conduct radiographic operations in offshore Federal waters in NRC jurisdiction under the authority of a general license under 10 CFR 150.20. (Section 1)

Inspection Findings

- The licensee failed to ensure that a radiographer conducting radiographic operations in NRC jurisdiction had been certified through a radiographer certification program by a certifying entity in accordance with the criteria specified in appendix A of 10 CFR Part 34. (Section 2)
- The licensee failed to ensure that a radiographer assistant conducting radiographic operations in NRC jurisdiction was wearing an alarm ratemeter. (Section 2)

Corrective Actions

- The licensee's short-term corrective actions involved the immediate termination of radiographic operations on the offshore platform on April 23, 2007, until long-term corrective actions could be taken. The licensee agreed not to conduct radiographic operations in NRC jurisdiction until at least one radiographer was certified in accordance with 10 CFR 34.43(a)(1). In addition to immediate correct actions taken, the licensee agreed to facilitate certification for all radiography personnel. The licensee also agreed to provide refresher training regarding the requirement that each radiographer and radiographer's assistant wear operating alarm ratemeters at all times during radiographic operations. These commitments were documented in a confirmatory action letter (CAL) issued by the NRC on May 18, 2007. On May 23, 2007, the licensee affirmed that they had completed the corrective actions specified in the CAL. The licensee's corrective actions included: (1) immediately terminating radiographic operations on the offshore platform on April 23, 2007; (2) facilitating the certification of one radiographer initially,

with the plan to facilitate certification of all radiography personnel; and (3) providing refresher training to all radiography personnel on the NRC requirement to wear an alarm ratemeter during radiographic operations. The NRC inspector confirmed that the radiographer had successfully completed the radiography certification requirements by contacting the American Society of Nondestructive Testing, Inc. Based on this information and information contained in Inspection Report 150-00004/07-02, it was determined that the licensee met the conditions of the CAL and inspection of that matter is complete.

Report Details

1 Program Overview (87121)

1.1 Inspection Scope

The inspector reviewed Westex's NRC Form 241 application, supporting documents, and other records maintained by the licensee. Collectively, these documents describe the licensee's industrial radiography activities in offshore Federal waters and its radiation safety program. Interviews with licensee personnel were also conducted.

1.2 Observations and Findings

Westex is a nondestructive testing company with its corporate offices located in Oxnard, California. Westex is authorized to conduct industrial radiography operations under its State of California radioactive materials license 5324-56. Westex is also authorized to conduct radiographic operations in offshore Federal waters in NRC jurisdiction under the authority of a general license issued pursuant to 10 CFR 150.20.

2 Inspection Findings (87121)

2.1 Inspection Scope

The inspector reviewed licensed activities at a temporary jobsite on an offshore platform in Federal waters off the coast of the State of California. The inspection involved the direct observation of the licensee's radiographic exposure device and associated equipment, and the licensee's security measures involving the exposure devices, as well as interviews with licensee radiography personnel.

2.2 Observations and Findings

- a. 10 CFR 150.20(b) provides, in part, that the general license provided in this section is subject to all the provisions of the Act, now or hereafter, and all applicable rules, regulations, and orders of the Commission including the provisions of subparts C through H of 10 CFR Part 34.

10 CFR 34.43(a)(1) in subpart D of Part 34, requires, in part, that a licensee may not permit any individual to act as a radiographer until the individual has received certification through a radiographer certification program by a certifying entity in accordance with the criteria specified in appendix A of this part.

During the unannounced inspection on April 23, 2007, and the interviews of two Westex radiography personnel on the offshore platform "Grace", the inspector determined that the sole radiographer onsite was not certified through a radiographer certification program. The radiographer stated that he was not aware that at least one certified radiographer was required to be on each jobsite during radiographic operations. During a subsequent interview, the radiographer indicated that he was a State of California certified radiographer, but he was unsure of the NRC requirements for certification. The radiographer further stated that he understood

from the RSO that his California "certification" was all that was needed for working offshore.

During interviews, the RSO stated that prior to the NRC inspection of April 23, 2007, he believed that Westex was in total compliance with NRC regulations as he understood them. The RSO stated that his radiographers had received the classroom training, completed the two months of on-the-job training required by 10 CFR 34.43(a)(1), and were "certified through a radiographer certification program by a certifying entity". The RSO further stated that he interpreted 10 CFR 34.43(a)(1) such that the certification from the State of California satisfied the NRC's radiographer certification program requirement. Based on the RSO's conversation with the NRC inspector during the onsite inspection on April 23, 2007, and subsequent conversations with the NRC inspector on May 15, 2007, the RSO affirmed that he now understands the radiographer certification requirements specified in 10 CFR 34.43(a)(1).

The failure of the licensee to ensure that a radiographer conducting industrial radiography operations in NRC jurisdiction had been certified through a radiographer certification program by a certifying entity in accordance with the criteria specified in appendix A of 10 CFR Part 34, was identified as a violation of 10 CFR 34.43(a)(1). (150-00004/07-01)

- b. 10 CFR 150.20(b) provides, in part, that the general license provided in this section is subject to all the provisions of the Act, now or hereafter, and all applicable rules, regulations, and orders of the Commission including the provisions of subparts C through H of 10 CFR Part 34.

10 CFR 34.47(a) in subpart D requires, in part, that the licensee not permit any individual to act as a radiographer or radiographer's assistant (assistant) unless, at all times during radiographic operations, each individual wears on the trunk of the body, a direct reading dosimeter, an operating alarm ratemeter, and a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Accreditation Program processor.

During the offshore platform inspection of April 23, 2007, the NRC inspector interviewed the assistant after observing the industrial radiography crew completing a radiographic exposure. While checking the personnel monitoring equipment, the inspector discovered that the assistant was wearing a "chirper" device that did not meet the functional requirements for an alarm ratemeter specified in 10 CFR 34.47(g). Specifically, the "chirper" could not be set to give an alarm at a preset dose rate of 500 millirem/hour, and did not have a special means to change the preset alarm function. The "chirper" device emitted a constant chirping sound when the device detected any level of radiation, and the intensity of the chirping sound would increase as the intensity of the radiation level increased. When questioned, the assistant stated that he had failed to bring his assigned alarm ratemeter with him when he left his vehicle to catch the customer's workboat. The assistant also stated he had failed to advise the radiographer that he had left his assigned alarm ratemeter onshore.

The radiographer stated that he was rushed on the morning of April 23, 2007, and had only checked to ensure that the assistant had a film badge (personnel dosimeter). The assistant had verbally affirmed that he had all his required safety equipment before leaving the dock. The radiographer stated that he did not know the assistant did not have his alarm ratemeter until the NRC inspector informed him. The radiographer assured the inspector that he understood the radiographer's oversight responsibility and knew that alarm ratemeters were required for each worker present during radiographic operations.

The failure of the licensee to ensure that a radiographer's assistant conducting radiographic operations in NRC jurisdiction was wearing an alarm ratemeter in accordance with subpart D of 10 CFR Part 34, "Radiation Safety Requirements," was identified as a violation of 10 CFR 34.47(a). (150-00004/07-02)

2.3 Conclusions

The inspection identified two violations of NRC requirements, which involved: (1) a failure to have a certified radiographer onsite during radiographic operations; and (2) a failure to ensure that all radiography personnel were wearing an alarm ratemeter during radiographic operations.

3 **Corrective Actions (87121)**

On April 23, 2007, the licensee's immediate corrective measures included the termination of radiographic operations on the offshore platform in Federal waters. In addition, subsequent to the inspection, the RSO met with all Westex radiography personnel and emphasized strict compliance with the requirement for all personnel to use an approved and operable alarm ratemeter during all radiographic operations.

During a telephone conference on May 17, 2007, the licensee agreed not to conduct radiographic operations in NRC jurisdiction until at least one radiographer onsite was certified in accordance with 10 CFR 34.43(a)(1). The licensee also made a commitment to ensure that each radiographer and radiographer's assistant wears an operating alarm ratemeter at all times during radiographic operations. Subsequently, the NRC issued a Confirmatory Action Letter (CAL No. 4-07-001) dated May 18, 2007, confirming the licensee's actions. During a telephone conversation on May 23, 2007, the licensee responded to the conditions of the CAL. In particular, the licensee affirmed that one radiographer had become certified through the American Society of Nondestructive Testing, Inc., which was verified by the NRC inspector. The licensee confirmed that all Westex personnel had received refresher training on the requirement to use an operable alarm ratemeter during all radiographic operations. Based on this information and information contained in this Inspection Report, it was determined that the licensee met the conditions of the CAL and inspection of that matter is complete.

4 **Exit Meeting Summary**

The preliminary site exit briefing was conducted on April 23, 2007 with the RSO. A final telephonic exit briefing was conducted with the RSO on November 28, 2007, to review the inspection findings as presented in this report. Licensee representatives acknowledged the inspector's findings. No proprietary information was identified.

SUPPLEMENTAL INSPECTION INFORMATION

PARTIAL LIST OF PERSONS CONTACTED

Licensee

Ruth Lupo, Owner
Michael Lupo, RSO
Henry Cline, Radiographer
Miguel Urrutia, Radiographer's Assistant

INSPECTION PROCEDURES USED

87121 Radiography Programs

ITEMS OPENED, CLOSED, AND DISCUSSED

Opened

150-00004/07-01	VIO	Failure to have a certified radiographer onsite during all radiographic operations, was identified as a violation of 10 CFR 34.43(a)(1).
150-00004/07-02	VIO	Failure to ensure that a radiographer's assistant was wearing an alarm ratemeter during radiographic operations, was identified as a violation of 10 CFR 34.47(a).

LIST OF ACRONYMS USED

CAL	Confirmatory Action Letter
CFR	Code of Federal Regulations
NRC	Nuclear Regulatory Commission
RSO	Radiation Safety Officer
VIO	Violation