

June 25, 2010

EA-10-068

Zdenko Kolanovic, President
Anthony & Edward Consultants
5 Cross Avenue
Matawan, NJ 07747

SUBJECT: NOTICE OF VIOLATION – NRC INSPECTION REPORT NO.
03036857/2009001 AND NRC OFFICE OF INVESTIGATIONS REPORT NO. 1-
2009-051

Dear Mr. Kolanovic:

This letter refers to an NRC reactive inspection conducted between February 17, 2009 and February 4, 2010, as well as a subsequent investigation by the NRC Office of Investigations (OI) commenced at the Anthony & Edward Consultants (A&E) facility located in Matawan, New Jersey. The NRC conducted the inspection at A&E after issuing an Order to A&E for nonpayment of licensee fees, which required payment of fees within 30 days of the date of the Order, or transfer of the licensed material, including four portable gauges, to an authorized recipient within 60 days of the date of the Order (reference: NRC Order Revoking License, issued on July 28, 2009 (ML092090560)).

When the NRC became aware from the State of New Jersey that the location A&E was using to store its licensed material had changed, and A&E did not respond to the NRC Order, the NRC made several attempts to locate A&E. Subsequently, an OI investigation was initiated to: (1) determine whether A&E deliberately failed to comply with the NRC Order, as well as NRC portable gauge storage requirements; and, (2) assist in locating the portable gauges, to verify the adequacy of security. After the NRC located A&E, and the inspection and investigation were completed, the findings were discussed with you on April 26, 2010, during an exit meeting.

Based on the information developed during the inspection and the investigation, the NRC has determined that three violations of NRC requirements occurred, although OI did not substantiate that any of the violations involved wrongdoing. The violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in Inspection Report No. 03036857/2009001, issued on May 25, 2007 (ML101460226). The violations involve the failures to: (1) pay licensee fees within 30 days of the date of the aforementioned Order, or transfer the licensed material to an authorized recipient within 60 days of the date of the aforementioned Order; (2) between February 18, 2009 and September 17, 2009, afford the NRC an opportunity to inspect the A&E facility; and, (3) confine storage of licensed material to a location specified on the license, as required by 10 CFR 30.34(c).

With respect to the significance of the violations, the NRC recognized that A&E was not using the portable gauges and that they were securely in storage during the times the NRC was not afforded the opportunity to inspect the A&E facility. However, the NRC expended significant

resources to locate A&E and ensure the security of the portable gauges after A&E did not afford the NRC an opportunity to inspect the facility. During the time the NRC was unaware of the new storage location, a potential existed for the portable gauges to have been stolen or tampered with, which could have resulted in the unnecessary exposure of members of the public to radiation. Considering that these violations share a common root cause of A&E not understanding or complying with NRC license requirements, the NRC has categorized these violations collectively, in accordance with the NRC Enforcement Policy, as a Severity Level (SL) III problem.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3,500 is considered for a SL III problem. Because 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. A&E's corrective actions, completed by April 2010, included the following: (1) transferring the gauges to an authorized recipient and performing a leak test on the portable gauges, which did not find any removable contamination present on the gauges; (2) paying required fees to the US Treasury; and, (3) requesting termination of the license. Therefore, in recognition of the absence of previous escalated enforcement action, and in consideration of the plans of the State of New Jersey to terminate the A&E license, which was transferred to the State when it became an Agreement State in 2009, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case.

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 03036857/2009001 and in this letter. In addition, as mentioned above, it is our understanding that the State of New Jersey plans to terminate the A&E license. Therefore, no response to the Notice is required. However, if the description in this letter does not accurately reflect your corrective actions or your position, or if you choose to respond, you should follow the instructions specified herein.

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>. To the extent possible, your response, if you choose to provide one, 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

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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 (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Sincerely,

/RA/ Original Signed by Marc L. Dapas for

Samuel J. Collins
Regional Administrator

Docket No. 030-36857
License No. 29-31009-01

Enclosure: Notice of Violation

cc:
State of New Jersey

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cc:
State of New Jersey

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NOTICE OF VIOLATION

Anthony & Edward Consultants
Matawan, New Jersey

Docket No. 03036857
License No: 06-31122-01
EA-10-068

During an NRC reactive inspection conducted between February 17, 2009 through February 4, 2010, as well as an NRC Office of Investigations (OI) investigation completed on March 31, 2010, for which an exit meeting was held on April 26, 2010, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. The NRC "Order Revoking License," dated July 28, 2009, required payment of licensee fees within 30 days of the date of the Order, or transfer to an authorized recipient of licensed nuclear material acquired or possessed under the authority of License No. 06-31122-01, and that the licensee take all actions required by 10 CFR 30.36. Such disposal must take place within 60 days from the date of the Order.

Contrary to the above, the licensee did not pay fees by August 27, 2009 (30 days after the date of the Order), or transfer to an authorized recipient licensed nuclear material acquired or possessed under the authority of License No. 06-31122-01 by September 27, 2009 (60 days after the date of the Order).

- B. 10 CFR 19.14(a) requires, in part, that each licensee afford to the Commission at all reasonable times opportunity to inspect materials, activities and records under the regulations.

Contrary to the above, the licensee did not afford to the Commission at all reasonable times opportunity to inspect materials, activities and records under the regulations. Specifically, between February 18, 2009 and September 17, 2009, an NRC inspector made several attempts to contact the licensee by telephone, mail, and a personal visit to the facility, to schedule an inspection of licensed activities, but the licensee did not respond to the inspector's requests.

- C. 10 CFR 30.34(c) requires that the licensee confine storage of licensed material to locations specified on the license. License Condition 10 of the license states that the authorized storage locations are 5 Pence Road, Manalapan, NJ, and 22 Walter Drive, Woodbridge, NJ.

Contrary to the above, the licensee did not confine storage of licensed material to locations specified on the license. Specifically, from September 5, 2008 through at least September 30, 2009, the licensee stored licensed material at 5 Cross Avenue, Matawan, NJ, which was not authorized on the license as a storage location.

These violations are collectively categorized as a Severity Level III problem. (Supplement VI).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report

No. 03036857/2009001 and in the letter transmitting this Notice of Violation. In addition, it is our understanding that the State of New Jersey plans to terminate the Anthony & Edward Consultants license that was transferred to the State when it became an Agreement State in 2009. Therefore, no response to this Notice of Violation is required. 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-10-068," 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.

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 <http://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.

Dated this 25th day of June 2010