

March 18, 2003

Terry Tobel, Plant Manager  
United Water  
700 East Jones Street  
Milwaukee, WI 53207

**SUBJECT: REPORT OF UNAUTHORIZED ACTIVITIES PERFORMED ON A GAUGE AND  
EXERCISE OF ENFORCEMENT DISCRETION**

Dear Mr. Tobel:

This refers to the February 6, 2003, telephone notification by Ms. Judy Grzegoski and her February 11, 2003, facsimile (with attached vendor's service report). This also refers to your March 3, 2003, letter notifying the NRC Region III office of unauthorized activities involving the removal of one gauge from installation at your Milwaukee, Wisconsin plant. The device, a Kay-Ray/Sensall, Inc., Model 7062BP (Serial No. 15473), contained a nominal 100 millicurie cesium-137 source as of 1983. Ms. Grzegoski indicated that in February 2002, an employee removed the gauge from its installed location, and this individual failed to close the source shutter mechanism prior to performing this service. Discussions with the individual revealed that he had not received any training in gauge removal or lock-out procedures, and he was unaware that the device contained radioactive material and required secure storage. On November 7, 2002, Ms. Grzegoski discovered the gauge in a scrap pile and placed the unit in secure storage. On February 4, 2003, the gauge was transferred to an authorized firm for disposal.

The failure to close the shutter prior to removing the gauge from service or moving it to secured storage has raised a safety concern regarding the individuals' potential radiation dose received during these activities. Based on information provided by your staff during a February 11, 2003, telephone conversation, we calculated the radiation levels at various locations in the vicinity of the gauge where the individuals most likely were present during removal and storage activities. We determined that each individual received a dose of approximately 25 millirem (the NRC's dose limit is 100 millirem per year for members of the public).

Based on your telephone notification and correspondence, we have determined that two violations of 10 CFR Part 31.5 occurred. The violations involved the failure to assure that removing the gauge containing radioactive material from its installation was performed by a person holding a specific license from the NRC or an Agreement State, and the failure to close and lock the shutter mechanism on a device not in use. We understand that your corrective actions included transferring the gauge to an authorized firm for disposal on February 4, 2003, and placing instructional cards on each of the two remaining gauges with instructions not to remove the device and the name of a contact individual. We also understand that you are planning to transfer the two remaining gauges for disposal.

Although violations of 10 CFR Part 31.5 were identified, since your actions were not willful, and because you identified and reported the violations to the NRC, and took appropriate corrective action to address the violations and prevent recurrence of similar problems, we are exercising enforcement discretion in accordance with the Interim Enforcement Policy for Generally Licensed Devices (May 1, 2000; 65FR 25368). Therefore, we are not issuing any enforcement action for these violations. However, any future violations of 10 CFR Part 31.5 may be considered for enforcement action.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter 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>.

We will gladly discuss any questions you have concerning this matter.

Sincerely,

*/RA/*

Jamnes L. Cameron, Acting Chief  
Materials Inspection Branch

Docket No. 99990003  
General Licensee 10 CFR 31.5

cc: Cheryl Rogers, State of Wisconsin

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