



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064**

August 21, 2003

EA-03-128

Mr. Richard E. Booth III
President
All Tech Corporation
P.O. Box 4728
2925 Garrett Way
Pocatello, ID 83205

SUBJECT: NRC OFFICE OF INVESTIGATIONS REPORT 4-2003-012

Dear Mr. Booth:

This refers to the investigation initiated on March 18, 2003, by NRC's Office of Investigations (OI) to determine if an employee of All Tech Corporation, an NRC licensee, deliberately failed to provide accurate and complete information to an NRC inspector regarding possession of radioactive materials. The results of our investigative findings were discussed with you during a telephonic exit briefing on August 4, 2003.

Based on the results of the investigation, two apparent violations were identified and are being considered for escalated enforcement action in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600. The current enforcement policy is included on the NRC's Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Enforcement Policy**. The apparent violations involve failures to: (1) provide complete and accurate information to an NRC inspector during an inspection on February 11, 2002, and; (2) conduct a physical inventory every 6 months to account for all sources and/or devices received and possessed under the license between June 2001 and October 2003. Of particular concern to the NRC is that these apparent violations may involve willfulness on the part of your employee. Enclosure 1 is a factual summary of the investigation. Since the NRC has not made a final determination in this matter, no Notice of Violation is being issued for these inspection findings at this time. In addition, please be advised that the number and characterization of apparent violations may change as a result of further NRC review.

A closed predecisional enforcement conference to discuss these apparent violations has been scheduled for September 15, 2003, in Pocatello, Idaho. The decision to hold a predecisional enforcement conference does not mean that the NRC has made a final determination that violations have occurred or that enforcement action will be taken. This conference is being held to assist the NRC in making an enforcement decision. This may include information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned. The conference will provide an opportunity for you to provide your perspective on these matters and any other information that you believe the NRC should take into consideration in making an enforcement decision. In presenting your corrective action, you

should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violations. The guidance in the enclosed NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION," may be helpful.

You will be advised by separate correspondence of the results of our deliberations on this matter. No response regarding these apparent violations is required at this time.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html>.

Should you have any questions, please contact Mr. Mark Shaffer at (817) 860-8287 or Mr. Michael Fuller at (817) 860-8164.

Sincerely,

/RA/

Elmo E. Collins, Director
Division of Nuclear Materials Safety

Docket No.: 030-35321
License No.: 11-27657-01

Enclosures:

1. Factual Summary of Office of Investigations Report 4-2003-012
2. Predecisional Enforcement Conference Agenda
3. NRC Information Notice 96-28
4. NRC Enforcement Policy, NUREG-1600

cc w/Enclosure 1 & 2:
Idaho Radiation Control Program Director

bcc w/Enclosure 1 (via ADAMS distrib):

FJCongel, OE

CLMiller, IMNS

EECollins

GFSanborn

GMVasquez

R Wise

KDSmith

MRShaffer

MLFuller

JEWhitten

CLCain

SLMerchant, OE

NBhalla, OE

OEMail

NMIB File

RIV File (5th Floor)

ADAMS: X Yes ☐ No Initials: MLF
X Publicly Available ☐ Non-Publicly Available ☐ Sensitive X Non-Sensitive

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ENCLOSURE 1

FACTUAL SUMMARY OFFICE OF INVESTIGATIONS REPORT 4-2003-012

Investigation 4-2003-013 was initiated by the NRC's Office of Investigations in March 2003 to determine if an employee for All Tech Corporation (ATC), an NRC licensee, deliberately failed to provide accurate and complete information to an NRC inspector regarding the possession of radioactive materials. ATC is authorized to possess and use licensed material in Boart Longyear Company (formerly Campbell Pacific Nuclear Company) and Troxler Electronic Laboratories, Inc., gauging devices that have been registered either with the NRC or with an Agreement State.

During an inspection on February 11, 2002, an NRC inspector and another NRC employee accompanying the inspector reviewed licensed activities at ATC's facilities in Pocatello, Idaho. During that inspection, an All Tech Corporation employee informed the inspector that there were only two gauges onsite at the time. When the inspector observed four wooden boxes that were previously approved as transport containers for older model Troxler Electronic Laboratories, Inc., gauges, the employee told the inspector that the boxes contained no Troxler Electronic Laboratories, Inc., gauges. The employee informed the inspector that the employee had "come across" the boxes and was planning to refinish them. The employee also provided the inspector with records of the inventories of the gauges in the licensee's possession.

Several months later, on about October 13, 2002, two Troxler Electronic Laboratories, Inc., gauges were recovered from the Portneuf River near Pocatello, Idaho. On October 15, 2002, ATC reported to the NRC and the Pocatello Police Department that two Troxler Electronic Laboratories, Inc., gauges were missing/stolen. Within days, it was determined that the gauges recovered from the Portneuf River were the two gauges that ATC reported as missing/stolen.

The investigation determined that on about June 28, 2001, ATC had taken possession of about four Troxler Electronic Laboratories, Inc., gauges and one Campbell Pacific Nuclear Company gauge. ATC had taken possession of the Troxler Electronic Laboratories, Inc., gauges in their wooden transport boxes. When confronted about the February 2002 statements to the NRC inspector that the wooden boxes were empty and the fact the inventory records did not indicate these four Troxler Electronic Laboratories, Inc., gauges, the employee admitted that the employee had "misrepresented and lied" to the inspector. The employee had lied about the wooden boxes being empty because the gauges were not carried on the inventory at the time, and the employee knew that. The employee stated that, although some of the gauges may have been at a vendor's facility being serviced, some of the gauges were present during the inspection. The employee had told the inspector that all the boxes were empty to avoid having the inspector look in all of them.

It appears the All Tech Corporation employee deliberately failed to provide complete and accurate information to the NRC inspector during the February 2002 inspection in the statements and records which were provided to the NRC inspector.

ENCLOSURE 2

PREDECISIONAL ENFORCEMENT CONFERENCE AGENDA

CONFERENCE WITH ALL TECH CORPORATION

SEPTEMBER 15, 2003

3:00 p. m.

POCATELLO, IDAHO

1. INTRODUCTIONS/OPENING REMARKS - ELMO E. COLLINS, DIRECTOR, DIVISION OF NUCLEAR MATERIALS SAFETY, NRC
2. ENFORCEMENT PROCESS - G. MICHAEL VASQUEZ, ENFORCEMENT SPECIALIST, NRC
3. APPARENT VIOLATIONS & REGULATORY CONCERNS - ELMO E. COLLINS, DIRECTOR, DIVISION OF NUCLEAR MATERIALS SAFETY, NRC
4. LICENSEE PRESENTATION - ALL TECH CORPORATION
5. BREAK - 10 MINUTES
6. RESUMPTION OF CONFERENCE
7. CLOSING REMARKS - ALL TECH CORPORATION
8. CLOSING REMARKS - ELMO E. COLLINS, DIRECTOR, DIVISION OF NUCLEAR MATERIALS SAFETY, NRC