



STATE OF MAINE
 DEPARTMENT OF HUMAN SERVICES
 DIVISION OF HEALTH ENGINEERING
 11 STATE HOUSE STATION
 AUGUSTA, MAINE
 04333-0011

RECEIVED
 REGION 1

JOHN ELIAS BALDACCI
 GOVERNOR

'04 APR -7 P1:17

JOHN R. NICHOLAS
 ACTING COMMISSIONER

April 2, 2004

John Myers
 257 E. Bridge Street
 Westbrook, ME 04092

License No.: 05505

NOTICE OF VIOLATION, CIVIL PENALTY, and ORDER

Dear Mr. Myers:

This refers to an allegation we received concerning the improper possession and storage of portable gauges in Westbrook, Maine. On April 2, 2004 Mr. Wayne Malloch investigated the allegation. This visit was an examination of your unlicensed activities as they relate to compliance with the State of Maine's Rules Relating to Radiation Protection (SMRRRP), 10-144A CMR, Chapter 220. The findings were discussed with you at the conclusion of his visit today.

Within the scope of the documentation, and in accordance with Part B, "Enforcement Actions, Procedures, and Civil Penalties", the following items of non-compliance were noted:

- A. Part C.1 of the SMRRRP requires, among other things, that the no person shall receive, possess, use, tyansfer, own or acquire radioactive material except as authorized in a specific licensed issued pursuant to this part.

Contrary to the above, on April 2, 2004, it was determined that you were in possession of licensable quantities of radioactive material, yet you were not licensed to do so. This was confirmed by the possession of the following gauges (with serial numbers): Troxler gauges model 4640B (s/n 000389) and model 3440 (s/n: 31872 & 31904) and CPN gauges model MC-1DRP (s/n: MD38038177, MD9040951, MD50602685, MD00505618, MD50802771) and model MC-3 (s/n 38028083)

Based upon the training received at CPN and conversations with you and CPN, this is considered a willful violation of the SMRRRP. Therefore this is a **Severity Level I Violation**. Pursuant to Part B.6 of the SMRRRP, this violation is subject to the Civil Penalty amount as outlined in Table 1A of Part B.9. This amount is \$2,000.00.

Pursuant to Part B.8 of the SMRRRP, effective immediately, John Myers is prohibited from engaging in any activity, which involves portable gauges within the State of Maine until further notice. This does not include the gauges already possessed by you. These gauges shall be returned to the rightful licensees by April 15, 2004.



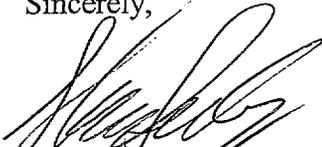
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John Myers
April 2, 2004
Page 2

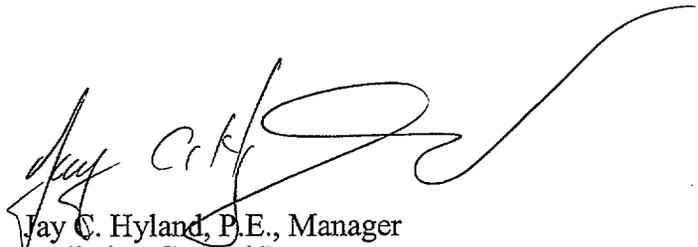
Pursuant to Part B.6.F, John Myers is required to submit payment to this office within 20 working days of April 2, 2004. You may within that 20 day period, answer to the notice of violation stating any facts, explanations, and arguments, denying the charges of violation, or demonstrating any extenuating circumstances, error in the notice of violation, or other reason why the penalty should not be imposed and may request remission or mitigation of the penalty. You may also request an administrative hearing in accordance with Part B.6.H.

In accordance with section B.12 of the State of Maine Rules Relating to Radiation Protection and the Maine Administrative Procedures Act a copy of this letter and any reply will be available for public inspection. Should you have any questions regarding this letter, please do not hesitate to contact this office at 207-287-5676.

Sincerely,



Shawn W. Seeley
Radioactive Materials Inspector
Radiation Control Program
Division of Health Engineering



Jay C. Hyland, P.E., Manager
Radiation Control Program
Division of Health Engineering

CC: Paul Gauvreau, Maine Office of Attorney General
✓ Duncan White, USNRC Region 1 Office, King of Prussia, PA
Lance Rakovan, USNRC, Office of State and Tribal Programs, Rockville, MD
Robert Walker, Massachusetts Radiation Control Program, Dorchester, MA 02121