

December 10, 2004
EN 04-026B

OFFICE OF ENFORCEMENT
NOTIFICATION OF SIGNIFICANT ENFORCEMENT ACTION

Licensee: All Tech Corporation
Pocatello, ID 83205 (EA-03-128)
Docket No. 030-35321

Subject: IMPOSITION OF CIVIL PENALTY - \$6,000

By EN 04-026 dated April 22, 2004, the Commission was notified of the staff's intent to issue a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$6,000 to All Tech Corporation (All Tech). This action was based on a Severity Level III violation related to a deliberate failure to provide complete and accurate information to an NRC inspector during an inspection on February 11, 2002. This information involved the location of certain moisture density gauges containing NRC-licensed material owned by All Tech at the time of the inspection. Two of the gauges were subsequently found in the Portneuf River in October 2002. A Notice of Violation at Severity Level III was also issued to the individual (the Radiation Safety Officer) who caused this deliberate violation.

The licensee responded to the Notice in a letter dated June 2, 2004. In its response, the licensee denied the violation, requested remission or mitigation of the civil penalty, and alleged impropriety on the part of NRC staff, stating that there "appeared to be a cover-up or an attempt to not let the truth be known." NRC managers, who were not involved with the original enforcement action, reviewed the licensee's response and found that many of the licensee's statements were inaccurate and without merit, and that no staff impropriety occurred. After careful consideration of the licensee's response, the staff has concluded that the severity level of the violations was appropriately determined, that the civil penalty assessment process was correctly followed, and that the licensee has not provided a basis for reducing the severity level of the violations or for mitigating the proposed civil penalty. Therefore, the staff has determined that the civil penalty proposed for the violations in the Notice should be imposed by Order.

Accordingly, an Order Imposing Civil Monetary Penalty in the amount of \$6,000 has been issued today. Under the terms of the Order, the licensee may, within 30 days of the date of the Order, pay the civil penalty or request a hearing.

Contacts: Sally L. Merchant, OE, 415-2740; Chris Nolan, OE, 415-2741

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OE:ES
S. Merchant
12/9/2004

OE:DD
CNolan
12/9/2004

**PRELIMINARY INFORMATION - NOT FOR PUBLIC DISCLOSURE UNTIL
VERIFICATION THAT LICENSEE HAS RECEIVED ACTION**