

OFFICE OF ENFORCEMENT
NOTIFICATION OF SIGNIFICANT ENFORCEMENT ACTION

Licensee: Imaging Subsurface, Inc. (EA-04-092)
Novi, MI 48376-1019
Docket No. 030-34616

Subject: PROPOSED IMPOSITION OF CIVIL PENALTY - \$3,000

By EN-04-040, dated August 12, 2004, the Commission was notified of the intent of the Office of Enforcement to issue a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$3,000 to Imaging Subsurface, Inc. This action was based on a Severity Level III violation involving the failure to secure from unauthorized removal, limit access to, or maintain constant surveillance of a Troxler moisture density gauge containing approximately 8.0 millicuries of cesium-137 and 40.0 millicuries of americium-241. Specifically, the licensed materials were transported in an open bed truck that was not equipped to secure the materials from unauthorized removal and the licensee employee did not control and maintain constant surveillance of the licensed materials while the materials were en route to or on the truck at temporary job sites.

Since issuance of the enforcement action, the owner of the company, who was also the radiation safety officer, was incapacitated as a result of a serious automobile accident. As a result, the owner's wife, who has power of attorney, has returned all gauges possessed by the company to the gauge manufacturer and has requested that the license be terminated. In addition, the owner's wife has requested the NRC consider withdrawing the civil penalty.

After careful consideration of the licensee's request, and the premise that enforcement actions are intended to encourage licensee compliance, the staff has concluded that withdrawal of the civil penalty is appropriate and is consistent with Section VII.B.6 of the Enforcement Policy.

Therefore, the staff intends to withdraw the civil penalty concurrent with our termination of the NRC license.

Region III has verified that all of the radioactive material has been appropriately transferred and will take steps to terminate the license.

Contacts: S. Merchant, OE, 415-2747 F. Congel, OE, 415-2741

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OFF	OE:ES	OE:D
NAME	S. Merchant	F. Congel

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

DATE	2/24/05	2/24/05
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