

EXHIBIT 1

EXHIBIT 1

INVESTIGATION STATUS RECORD

Facility:	ALL TECH CORPORATION	Case Agent:	GONSOULIN, BRIAN D (BDG)
Case Number:	4-2003-012	Date Opened:	03/18/2003
Docket Number(s):	03035321	ECD:	6/2003
		Priority:	High
Case Type:	Materials / Industrial	Status:	Field Work In Progress
Primary Alleg Source:	NRC Inspector / Technical Staff		
Allegation Number(s):	RIV-2003-A-0024		
Subject/Allegation:	DELIBERATE FAILURE TO PROVIDE ACCURATE AND COMPLETE INFORMATION ON THE POSSESSION OF RADIOACTIVE MATERIALS		

Monthly Status Report:

03/18/2003: On or about February 11, 2002, during a routine inspection of the All Tech Corporation (ATC), a Nuclear Regulatory Commission, Region IV (RIV), materials licensee, Mike FULLER, Senior Health Physicist, Nuclear Materials Inspection Branch (NMIB), and Jackie COOK, Senior Licensing Reviewer, Division of Nuclear Materials Safety, RIV, were informed by Billy BERRY, General Manager and Radiation Safety Officer, ATC, that four wooden portable gauge transport containers that were stored at the licensee's facility were empty and that he [BERRY] had acquired the empty containers for the purpose of refinishing them. FULLER verified that at least one of the containers was empty.

In October 2002, Brian Gonsoulin, Special Agent, Office of Investigations (OI), RIV, during the conduct of OI Case No. 4-2002-049F, interviewed BERRY who stated that the wooden portable transport containers contained inoperable portable nuclear gauges and that two of the gauges had evidently been stolen from their boxes. According to BERRY, he did not realize the gauges were missing because he had only inventoried the containers, not the gauges, when he performed a physical inventory in August, 2002. BERRY said he discovered the two gauges were stolen after they were found in a river in September 2002. BERRY had stated to OI that he had verified the gauges were in storage at the ATC facility when he conducted a physical inventory of the gauges in March 2002. There appears to be a discrepancy between statements made by BERRY to FULLER in February 2002 and the statements made by BERRY to OI in October 2002.

On March 17, 2003, the RIV Allegation Review Board discussed the concerns identified by FULLER and requested that OI, with assistance from NMIB, conduct an investigation to determine if the information provided to NMIB and OI by BERRY was inaccurate and incomplete. Status: FWP ECD: 06/2003 (90-day) Potential Violations: 10 CFR 30.9; 30.10 and 18 USC 1001 SOL: 03/2008

Completion Date:	Total Staff Hours: 0.0
Issue Date:	Months Open: 0.0
DOJ Action(s):	DOJ Referral Date:
OI Violation(s): False Statement - No Result	Statute of Limitations Date: 03/18/2008

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EXHIBIT 2

EXHIBIT 2

INTERVIEW REPORT
WITH
MICHAEL FULLER

On March 21, 2003, Michael FULLER, Senior Health Physicist, Nuclear Materials Inspection Branch (NMIB), Division of Nuclear Materials Safety (DNMS), Nuclear Regulatory Commission (NRC), Region IV (RIV), was interviewed by Special Agent Brian D. Gonsoulin, NRC, Office of Investigations (OI), RIV. FULLER was interviewed regarding an allegation that Billy BERRY, General Manager/Radiation Safety Officer, All Tech Corporation (ATC), Pocatello, Idaho, an NRC licensee, failed to provide accurate and complete information concerning ATC's possession of radioactive material. This report relates, in substance, information provided by FULLER.

FULLER stated that on February 11, 2002, he and Jacqueline D. COOK, Health Physicist, NMIB, DNMS, NRC:RIV, arrived at ATC's facility to conduct an unannounced inspection and to address an allegation made about ATC that density gauges were being transported without proper containers. According to FULLER, he and COOK were met by BERRY who initially stated there were no density gauges at ATC at that time, that the density gauges normally held in ATC's inventory were being serviced at Qal-Tek, Inc. (Qal-Tek), an NRC licensee, Pocatello, Idaho. FULLER said BERRY stated that because of the time of year and the fact that the ground was covered with snow, there was not much compaction testing required, therefore he [BERRY] said it was good time of the year to have ATC's density gauges tested and calibrated. FULLER told BERRY that in light of September 11, 2001, he wanted to inspect the facility anyway for security purposes. FULLER said he requested to inspect the area where ATC normally held their density gauges. FULLER stated as he, BERRY, and COOK entered the storage area at ATC, BERRY stopped them and stated he had two gauges in his storage area that were being leased from Qal-Tek. FULLER said BERRY stated that while he did not have any of ATC's density gauges on site, he held the two aforementioned density gauges in case there was a need for them.

FULLER stated that when they reached the storage area that contained the two density gauges, BERRY unlocked the storage room, and he [FULLER] entered to inspect the area. FULLER stated he saw the two density gauges on the floor from Qal-Tek, which were in yellow Troxler transport cases, and looked over the serial numbers to verify that the gauges in the containers matched the serial numbers on the containers themselves. FULLER verified the serial numbers matched. FULLER stated that while he was in the locked area inspecting the density gauges, he noticed at least four wooden transport boxes stacked up, which appeared to be older model Troxler transport boxes sitting on the floor. FULLER stated that before he could ask BERRY about the wooden boxes, he [BERRY] volunteered information about the boxes stating those wooden boxes contained no density gauges, that he [BERRY] had "come across" the boxes and was planning to refinish them. FULLER stated he lifted up one of the boxes and it felt as though it was empty. FULLER stated he did not pick up on any of the other wooden boxes. FULLER added he did not notice if the wooden boxes were chained together. FULLER said he noticed no other wooden boxes outside of the locked storage area within the ATC facility.

According to FULLER, the gauges he recalled seeing on ATC's inventory were the two BERRY claimed were at Qal-Tek being serviced and one of the Qal-Tek density gauges BERRY reportedly leased from Qal-Tek. FULLER stated he felt it did not make sense that BERRY carried a leased density gauge in ATC's inventory, but said he did not pursue it at that time. FULLER stated he also copied the serial numbers from the two gauges on site, to include the two reportedly leased from Qal-Tek, and ran all four serial numbers to ensure none of them were reported stolen, and according to FULLER, none of them were.

FULLER stated he later discovered, as a result of a subsequent inspection in September 2002 and OIRIV investigations [OI Case Nos. 4-2002-045 and 4-2002-049F], that ATC reported the theft and subsequent recovery of two Troxler density gauges discovered in the Portneuf River, near Pocatello, Idaho, in October 2002. FULLER stated that through his inquiries regarding the gauges, he discovered that during the September 2002 inspection of ATC, BERRY reported that ATC had received six density gauges from someone out of state [NFI] and that the density gauges were stored in the wooden crates previously described by FULLER. FULLER stated that to his knowledge, not all of the density gauges purchased by ATC were operable. According to FULLER, the density gauges owned by ATC in question were purchased prior to his [FULLER's] February 2002 inspection of ATC and were not on ATC's inventory list. FULLER stated when he learned of that, he recalled BERRY telling him the wooden boxes were empty, when in fact, according to BERRY's statement during his September 2002 inspection, the density gauges were kept in the wooden boxes, and he [BERRY] did an inventory of them every 6 months by verifying the wooden boxes were still there, chained together. FULLER said according to BERRY's statement, he last conducted a physical inventory of the density gauges in March 2002, and all of them were accounted for at that time. FULLER reiterated BERRY told him during the February 2002 inspection that the wooden boxes in the ATC inventory room were empty and that he [BERRY] had obtained them empty.

This report was prepared on March 25, 2003, from agent's notes.



Brian D. Gonsoulin, Special Agent
Office of Investigations, Region IV

EXHIBIT 3

EXHIBIT 3


INTERVIEW REPORT
WITH
JACQUELINE D. COOK

On March 24, 2003, Jacqueline D. COOK, Health Physicist, Nuclear Materials Licensing Branch, Division of Nuclear Materials Safety (DNMS), Nuclear Regulatory Commission (NRC), Region IV (RIV), was interviewed by Special Agent Brian D. Gonsoulin, NRC, Office of Investigations, RIV. COOK was interviewed regarding an allegation that Billy BERRY, General Manager/Radiation Safety Officer, All Tech Corporation (ATC), Pocatello, Idaho, an NRC licensee, failed to provide accurate and complete information concerning ATC's possession of radioactive material. This report relates, in substance, information provided by COOK.

COOK stated that on February 11, 2002, she accompanied Michael FULLER, Senior Health Physicist, Nuclear Materials Inspection Branch, DNMS, NRC:RIV, on an inspection of the ATC facility. COOK stated the inspection was in part to follow-up on an allegation NRC:RIV received regarding ATC not transporting density gauges in proper containers. COOK stated when she and FULLER asked to inspect ATC's storage facility, BERRY stated he had no ATC density gauges on site, stating he had sent them off to be serviced at another location [NFI]. COOK stated FULLER requested to see the storage area anyway to ascertain how the density gauges were normally stored. COOK stated BERRY then said he had two density gauges in ATC's storage area, adding he had leased them while ATC's density gauges were being serviced. COOK stated that when they reached the storage area and entered, she observed the two density gauges BERRY had referred to. COOK said she also noticed at least four wooden boxes within the storage area. COOK stated FULLER inquired about the wooden boxes and was told by BERRY that he [BERRY] had planned on refinishing them and that they were empty. COOK stated FULLER picked up one or two of the wooden boxes and verified that at least the ones he picked up were empty. COOK stated she clearly remembered hearing BERRY say the wooden boxes were empty, but could not recall if he [BERRY] mentioned where he got the wooden boxes. COOK further stated that was the first inspection she had been on trying to receive her certification and that she was just there to assist FULLER.

AGENT'S NOTE: COOK could not recall with certainty where BERRY said he sent ATC's density gauges to be serviced, nor where BERRY said he leased the density gauges from that were present at the ATC facility.

This report was prepared on March 25, 2003, from agent's notes.



Brian D. Gonsoulin, Special Agent
Office of Investigations, Region IV

EXHIBIT 4

EXHIBIT 4

1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION
3 + + + + +
4 OFFICE OF INVESTIGATIONS
5 INTERVIEW

6 -----x

7 IN THE MATTER OF: :
8 INTERVIEW OF : Docket No.
9 BILLY H. BERRY : 4-2003-012
10 (CLOSED) :
11 -----x

12 Wednesday, April 9, 2003

13
14 All Tech Corporation
15 2925 Garrett Way
16 Pocatello, Idaho 83205
17

18 The above-entitled interview was conducted
19 at 8:55 a.m.
20

21 BEFORE:

22 Special Agent BRIAN D. CONSOULIN
23 Senior Health Physicist MICHAEL FULLER
24

25 4-2003-012

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P-R-O-C-E-E-D-I-N-G-S

(8:07 a.m.)

SPECIAL AGENT CONSOULIN: This is the interview of Mr. Billy H. Berry, who resides at [REDACTED]. He is employed by All Tech Corporation, in Pocatello, Idaho.

Today's date is April 9th, 2003, and the time is approximately 8:55 a.m. Mr. Berry, would you please state your full name, and spell your last name for the record?

MR. BERRY: Billy H. Berry, B-E-R-R-Y.

SPECIAL AGENT CONSOULIN: Okay. And what is your date of birth, Mr. Berry?

MR. BERRY: 4/25/59.

SPECIAL AGENT CONSOULIN: And your social security number?

MR. BERRY: [REDACTED]

SPECIAL AGENT CONSOULIN: And what is your current job title, Mr. Berry?

MR. BERRY: General manager.

SPECIAL AGENT CONSOULIN: All right. Are you the general manager, or the general manager of what?

MR. BERRY: I am the general manager for service (inaudible).

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1 SPECIAL AGENT CONSOULIN: Mr. Berry, the
2 purpose of this interview as I told you is to clear up
3 some inconsistencies that we discovered through our
4 investigative process, and I would like to just ask
5 you a few questions about that.

6 MR. BERRY: Okay.

7 SPECIAL AGENT CONSOULIN: Would you raise
8 your right hand, please.

9 (Whereupon, Mr. Billy H. Berry was sworn.)

10 SPECIAL AGENT CONSOULIN: I am Brian
11 Gonsoulin, and I am with the NRC's Office of
12 Investigations, Region IV, and also present is Michael
13 Fuller, and he is a Senior Health Physicist from
14 Region IV. What is your educational background, Mr.
15 Berry?

16 MR. BERRY: Idaho State University, and I
17 have got some additional college at Idaho State
18 University in engineering, and I have an associates
19 degree in civil engineering and technology.

20 SPECIAL AGENT CONSOULIN: And what is your
21 experience in the field that you are in now?

22 MR. BERRY: I have been working in the
23 construction and quality control, and quality
24 assurance field for 24 years.

25 SPECIAL AGENT CONSOULIN: And how long

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1 have you been employed with All Tech?

2 MR. BERRY: Since 1999.

3 SPECIAL AGENT CONSOULIN: Were you hired
4 on as general manager?

5 MR. BERRY: Yes, sir.

6 SPECIAL AGENT CONSOULIN: Mr. Berry, back
7 in September of last year, do you recall me coming
8 over to talk to you about an incident that occurred
9 with your instructive testing; is that correct; or
10 instructive testing that involved your company?

11 MR. BERRY: Correct.

12 SPECIAL AGENT CONSOULIN: Okay. While I
13 was here, there were gauges discovered in the river,
14 and what is the name of the river that they were
15 discovered in?

16 MR. BERRY: Portneuf.

17 SPECIAL AGENT CONSOULIN: Correct. Thank
18 you. And they subsequently turned out to be your
19 gauges, correct?

20 MR. BERRY: Yes, sir.

21 SPECIAL AGENT CONSOULIN: Okay The gauges
22 that were discovered, how did you acquire those
23 gauges?

24 MR. BERRY: We purchased them from -- I
25 believe it is Desert Southwest Testing, Arkansas Team

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1 and Arizona, or Nevada.

2 SPECIAL AGENT CONSOULIN: Okay. And who
3 did you purchase those gauges from?

4 MR. BERRY: The gentleman's name is Jay
5 Maccia?

6 SPECIAL AGENT CONSOULIN: And what date
7 did you purchase those from Jay Maccia?

8 MR. BERRY: It was June of that year. I
9 can't remember the exact date. It was towards the end
10 of June.

11 SPECIAL AGENT CONSOULIN: June of 2001?

12 MR. BERRY: I believe so.

13 SPECIAL AGENT CONSOULIN: Okay. And the
14 person's name again was?

15 MR. BERRY: Jay Maccia.

16 SPECIAL AGENT CONSOULIN: Is that a J.
17 initial, or --

18 MR. BERRY: J-A-Y, I believe.

19 SPECIAL AGENT CONSOULIN: And do you know
20 how to spell Maccia?

21 MR. BERRY: M-A-C-C-I-A, I believe it was.

22 SPECIAL AGENT CONSOULIN: Okay. Now, the
23 gauges were stolen, and you said they were in your
24 inventory at the time, or go over how you discovered
25 they were stolen?

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1 MR. BERRY: We had or I had heard on the
2 news report on Sunday evening about them being found
3 in the river, and that morning I came out here and
4 looked physically. All the boxes were there, and the
5 chain and locks that were on them there were there.
6 Those nukes are out of service.

7 And I am the one that had the keys to
8 those. That was on Monday morning. On Tuesday, after
9 a discussion with Mr. Booth, president of the company,
10 and we had decided to physically go through and open
11 all the boxes and that is when we found them missing.

12 SPECIAL AGENT CONSOULIN: Who did the
13 inventory?

14 MR. BERRY: Don Brown.

15 SPECIAL AGENT CONSOULIN: And what is Mr.
16 Brown's position?

17 MR. BERRY: Don Brown is the quality
18 assurance manager for Booth and Associates, I think.

19 SPECIAL AGENT CONSOULIN: He works
20 directly for Mr. Booth?

21 MR. BERRY: Yes, sir.

22 SPECIAL AGENT CONSOULIN: Okay. How many
23 gauges have you purchased from (inaudible) Software?

24 MR. BERRY: Five.

25 SPECIAL AGENT CONSOULIN: Five?

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1 MR. BERRY: Correct.

2 SPECIAL AGENT CONSOULIN: Were they all in
3 operating condition?

4 MR. BERRY: No.

5 SPECIAL AGENT CONSOULIN: Okay. Explain
6 to me how the situation was like that?

7 MR. BERRY: He wanted to see the Campbell
8 CTN-NC3 gauge, and we were interested in it, and we
9 made him an offer on it, and he said, well, he had
10 these others, and he wanted to sell them. I said,
11 well, I am not really interested in them.

12 He said, well, if you will give me -- I
13 think it was like \$300 or \$400 more, I will throw
14 those in, too, also.

15 SPECIAL AGENT CONSOULIN: And those are
16 Troxler gauges?

17 MR. BERRY: Those were Troxler 2401s.

18 SPECIAL AGENT CONSOULIN: Okay. And how
19 many of those were there?

20 MR. BERRY: There were four of those.

21 SPECIAL AGENT CONSOULIN: So, there were
22 four Troxlers and one Campbell?

23 MR. BERRY: Correct.

24 SPECIAL AGENT CONSOULIN: And when you
25 bought them how were they packaged? Did they come in

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1 wooden boxes?

2 MR. BERRY: They were delivered that way
3 to us, yes.

4 SPECIAL AGENT CONSOULIN: Okay. And they
5 were delivered to you back in June of 2001?

6 MR. BERRY: Yes, sir.

7 MR. FULLER: I'm sorry, but the person
8 that you said came on Tuesday and helped you with the
9 inventory, what was that person's name again?

10 MR. BERRY: Don Brown.

11 MR. FULLER: And he works for Booth?

12 MR. BERRY: Correct..

13 MR. FULLER: And that is the parent
14 company?

15 MR. BERRY: Correct.

16 MR. FULLER: And what is his position
17 again?

18 MR. BERRY: He is a QA auditor.

19 MR. FULLER: QA. All right.

20 SPECIAL AGENT CONSOULIN: From the time
21 that you purchased the gauges, Mr. Berry, did you keep
22 an inventory here?

23 MR. BERRY: Yes, sir.

24 SPECIAL AGENT CONSOULIN: Okay. And you
25 stored everything here?

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1 MR. BERRY: Yes, sir.

2 SPECIAL AGENT CONSOULIN: Okay. When you
3 got them, you stored them here?

4 MR. BERRY: Yes, sir.

5 SPECIAL AGENT CONSOULIN: Why did you
6 conduct the inventory on those gauges?

7 MR. BERRY: We normally go through and I
8 will look at the gauges, and physically check to see
9 if all our boxes are there, and they are locked, and
10 checked for the locks on the interior of the gauges.
11 Those, when they weren't in use, I had them all
12 chained up.

13 I believe I showed you that that day how
14 I had them all chained together, and I kept the keys
15 for those in my desk drawer here.

16 SPECIAL AGENT CONSOULIN: Okay. All
17 right. And the four of them that were chained
18 together, were they chained together from the date
19 that you got them?

20 MR. BERRY: Yes, sir.

21 SPECIAL AGENT CONSOULIN: Okay. Did you
22 ever -- when you looked inside, I guess you looked
23 inside initially when you first bought them?

24 MR. BERRY: Yes, sir.

25 SPECIAL AGENT CONSOULIN: When is the last

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1 time that you had looked in them, physically looked in
2 them before you discovered that two of them were
3 missing?

4 MR. BERRY: April of that year, I believe.

5 SPECIAL AGENT CONSOULIN: April of --

6 MR. BERRY: April of last year, 2002.

7 SPECIAL AGENT CONSOULIN: Okay. And they
8 were all accounted for?

9 MR. BERRY: Yes, sir.

10 SPECIAL AGENT CONSOULIN: Okay. So the
11 ones that ended up being stolen, and correct me if I
12 am wrong, but hey were on the bottom, correct?

13 MR. BERRY: Yes, sir.

14 SPECIAL AGENT CONSOULIN: So between April
15 and October, or September --

16 MR. BERRY: Yes, sir.

17 SPECIAL AGENT CONSOULIN: Did you do
18 another physical inventory of it?

19 MR. BERRY: Okay. I did an inventory and
20 I checked the boxes, and they were locked, and they
21 appeared to be in the same condition as when I had
22 locked them.

23 SPECIAL AGENT CONSOULIN: Well, let me
24 rephrase my question.

25 MR. BERRY: I had not opened the boxes and

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1 see the gauges.

2 SPECIAL AGENT CONSOULIN: Thank you.
3 Okay. So April was the last time that you had saw
4 them?

5 MR. BERRY: Yes, sir.

6 SPECIAL AGENT CONSOULIN: And I may be
7 going over things again, but I just want to make sure
8 that I have this right.

9 MR. BERRY: No, that's fine.

10 SPECIAL AGENT CONSOULIN: And Mr. Brown
11 came the morning of the 15th of October; is that
12 correct?

13 MR. BERRY: I believe so.

14 SPECIAL AGENT CONSOULIN: Or after or
15 subsequent to the discovery of them being missing, you
16 guys -- whose idea was it to open up the boxes and
17 check to see and to make sure that they were all
18 there?

19 MR. BERRY: Don and I decided that. I
20 believe it was a joint decision.

21 SPECIAL AGENT CONSOULIN: Okay. And you
22 checked all four of the boxes and two boxes were empty
23 at the bottom?

24 MR. BERRY: That's correct.

25 SPECIAL AGENT CONSOULIN: And at that

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1 point, you contacted the police department?

2 MR. BERRY: Yes, sir.

3 SPECIAL AGENT CONSOULIN: And what
4 happened after that?

5 MR. BERRY: We went through and filed a
6 report on that. The exact sequence of events, I
7 really am not sure of now, but we were contacted, and
8 I filed an incident report.

9 Within a few days, and I can't remember if
10 it was a day or two, I can't remember if it was the
11 NRC that contacted me first or the Sheriff's
12 Department, that those gauges were found, and were in
13 the possession of the police, and actually physically
14 being held by the Department of Transportation.

15 And sometime about that same time, you
16 appeared, and interviewed me, and we talked about
17 that, and I finally got them back -- they were
18 released to me by the Idaho State Police about six
19 weeks later.

20 SPECIAL AGENT CONSOULIN: Okay. So you
21 probably have all four of them that were given back to
22 you and in your possession?

23 MR. BERRY: Yes, sir.

24 SPECIAL AGENT CONSOULIN: Okay.

25 MR. BERRY: And those were inventoried

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1 three weeks ago.

2 SPECIAL AGENT CONSOULIN: Were they
3 actually --

4 MR. BERRY: They were actually opened and
5 everything.

6 SPECIAL AGENT CONSOULIN: Okay. And your
7 current inventory records show how many gauges?

8 MR. BERRY: Eight.

9 SPECIAL AGENT CONSOULIN: Okay. So you
10 have always kept those on your inventory records?

11 MR. BERRY: Yes, sir.

12 MR. FULLER: Can I ask another question?

13 SPECIAL AGENT CONSOULIN: Sure.

14 MR. FULLER: I am a little curious about
15 one thing. These four gauges that you initially
16 didn't want, you decided to go ahead and purchase them
17 for like you said an additional \$300 or \$400. What
18 value would you suspect that they might have?

19 I mean, what was your -- what was your
20 plan as far as -- how would you recoup the \$300 or
21 \$400?

22 MR. BERRY: There is a company in Salt
23 Lake City called Nuclear Testing Services. They are
24 one of the only companies that still work on and
25 service the 2401s.

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1 And in talking with Dan down there, it was
2 -- we figured that he may be able in the future get us
3 two gauges out of the four, 2 out of the 4, and
4 currently I don't need them for use purposes, and so
5 that is the reason that we put them out of service.

6 SPECIAL AGENT CONSOULIN: Mr. Berry, do
7 you recall Mr. Fuller doing an inspection on you back
8 in -- was it February of 2002?

9 MR. BERRY: Yes, sir.

10 SPECIAL AGENT CONSOULIN: And do you
11 recall what occurred during that inspection?

12 MR. BERRY: Let's see. I didn't have my
13 annual report in a written format. Other than that --

14 SPECIAL AGENT CONSOULIN: And when Mr.
15 Fuller went back with you in the back where the gauges
16 were kept --

17 MR. BERRY: Yes, sir.

18 SPECIAL AGENT CONSOULIN: -- do you recall
19 him addressing the boxes, mentioning anything about
20 the boxes that contained the gauges?

21 MR. FULLER: The wooden boxes.

22 SPECIAL AGENT CONSOULIN: The wooden
23 boxes.

24 MR. BERRY: Not right off the top of my
25 head, no.

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1 SPECIAL AGENT CONSOULIN: Let me see if I
2 can refresh your memory, sir. He asked you why you
3 had the boxes in there with the rest of your -- well,
4 where the gauges were supposed to be stored, and at
5 that time you told him that the boxes were empty. Do
6 you remember doing that, sir?

7 MR. BERRY: Yes, sir.

8 SPECIAL AGENT CONSOULIN: Were they in
9 fact empty when you told him that they were empty?

10 MR. BERRY: Yes, sir.

11 SPECIAL AGENT CONSOULIN: How could they
12 have been empty if the gauges were supposedly in
13 there?

14 MR. BERRY: We sent them down to have them
15 checked out for repairs, and see what repairs needed
16 to be done on them. And you can't transport them in
17 the wooden cases.

18 SPECIAL AGENT CONSOULIN: All right. Do
19 you recall telling Mr. Fuller that you purchased the
20 boxes empty?

21 MR. BERRY: No, sir.

22 SPECIAL AGENT CONSOULIN: And you
23 purchased the boxes empty with the idea of
24 refurbishing them and making them useful for some
25 other purpose?

1 MR. BERRY: That is the way that they were
2 delivered to us. I know that I can't transport that
3 gauges in those boxes.

4 SPECIAL AGENT CONSOULIN: Well, my
5 question was you purchased them without gauges in
6 them?

7 MR. BERRY: No, sir.

8 SPECIAL AGENT CONSOULIN: That is what you
9 told Mr. Fuller during your interview. During his
10 interview of you, you told him that you had purchased
11 these boxes with no gauges in them.

12 MR. BERRY: Okay.

13 SPECIAL AGENT CONSOULIN: And those gauges
14 that you supposedly had in them were not on the
15 inventory at the time.

16 MR. BERRY: Okay.

17 SPECIAL AGENT CONSOULIN: And the
18 inventory list was checked and those gauges were not
19 in your inventory.

20 MR. BERRY: Okay.

21 SPECIAL AGENT CONSOULIN: So can you
22 explain that to me?

23 MR. BERRY: No, sir, because I am not
24 really sure how that happened, if I made a mistake or
25 whatever. I am not really even a hundred percent sure

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1 of the conversation.

2 SPECIAL AGENT CONSOULIN: All right. The
3 gauges you said were delivered to you in June of 2001.

4 MR. BERRY: Yes, sir.

5 SPECIAL AGENT CONSOULIN: And when you
6 bought them, they were inoperable, four of them.

7 MR. BERRY: Correct.

8 SPECIAL AGENT CONSOULIN: When Mr. Fuller
9 came in February of 2002, he inquired about the boxes
10 that were in your storage, the wooden boxes.

11 MR. BERRY: Yes, sir.

12 SPECIAL AGENT CONSOULIN: And at that
13 time, you told him that they were empty?

14 MR. BERRY: Yes.

15 SPECIAL AGENT CONSOULIN: And if they were
16 inoperable, why were they being serviced?

17 MR. BERRY: They weren't.

18 SPECIAL AGENT CONSOULIN: Where were they?
19 You said they were out being serviced. I wanted to
20 check to see what we needed to do to repair them if
21 they could be repaired.

22 SPECIAL AGENT CONSOULIN: And who was
23 going to do that work for you?

24 MR. BERRY: Fair Testing Services.

25 SPECIAL AGENT CONSOULIN: So you had sent

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1 them back to Utah?

2 MR. BERRY: Yes, sir. and I couldn't ship
3 them in those cases.

4 MR. FULLER: Let me ask a clarifying
5 question on that issue. When you say that you can't
6 ship them, you mean you can't ship them by like with
7 FedEx?

8 MR. BERRY: I can't transport.

9 MR. FULLER: Those wooden boxes are not --

10 MR. BERRY: Those wooden boxes are not
11 transport cases. They cannot be used for transport
12 cases anymore.

13 MR. FULLER: So that is a change in the
14 DOT rules?

15 MR. BERRY: Yes, sir. They have to be one
16 of the approved 6 or 7 cases.

17 SPECIAL AGENT CONSOULIN: Going back to
18 the question that I asked earlier, Mr. Berry. Why
19 were the gauges not in your inventory list?

20 MR. BERRY: To be honest with you, I
21 cannot answer that. I do not know.

22 SPECIAL AGENT CONSOULIN: Mr. Fuller
23 recalled -- I interviewed Ms. Jackie Cooke. Do you
24 recall Ms. Jackie Cooke being interviewed by me?

25 MR. BERRY: Yes, sir.

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1 SPECIAL AGENT CONSOULIN: And I
2 interviewed her and Mr. Fuller interviewed you, and
3 they both said that you had mentioned that the boxes
4 were purchased without gauges in them. Why would you
5 tell them that when they had gauges in them when they
6 were purchased?

7 MR. BERRY: I do not know. I can't answer
8 that question. I really don't, because that is not
9 what happened.

10 SPECIAL AGENT CONSOULIN: Well, why don't
11 you tell me what happened, Mr. Berry?

12 MR. BERRY: We purchased those gauges --

13 SPECIAL AGENT CONSOULIN: I mean, during
14 your conversations with them?

15 MR. BERRY: I can't tell you for sure. I
16 mean, do you want me to tell you what I told them? I
17 don't remember and that is the honest truth.

18 SPECIAL AGENT CONSOULIN: Okay. So just
19 to clarify, you are telling me that you had a
20 conversation with two individuals who recall the
21 conversation being that you made a statement that you
22 purchased the wooden boxes with the idea of
23 refurbishing them and making them look good for lack
24 of a better term, and you don't recall any of that
25 conversation?

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1 MR. BERRY: I remember having a
2 conversation with the people. I remember that, but I
3 don't remember that particular thing.

4 SPECIAL AGENT CONSOULIN: Do you recall
5 having a conversation with Mr. Fuller regarding his
6 interest in woodworking with you?

7 MR. BERRY: Sir?

8 SPECIAL AGENT CONSOULIN: His interest in
9 woodworking?

10 MR. BERRY: No, sir. And when he inquired
11 about the boxes, you told him that they were empty,
12 and he had a conversation with you about his interest
13 in woodworking?

14 MR. BERRY: He could have. I know what
15 our plan was, and I was considering that, but the
16 conversation with Mr. Fuller, I don't really remember.
17 I didn't report the conversation, and I didn't make a
18 transcript of the conversation, and I really didn't
19 feel like I had to.

20 And you are asking me to remember something
21 that happened over a year ago.

22 SPECIAL AGENT CONSOULIN: Well, what I am
23 asking you, Mr. Berry, is not that you either recorded
24 the conversations or made notes of your conversations.
25 I am asking you if you recall the conversation.

1 MR. BERRY: I remember a conversation, but
2 the exact contents and everything that was said, no.

3 SPECIAL AGENT CONSOULIN: I find it kind
4 of strange that you would have said something like
5 that and not remembered, knowing that there were
6 gauges in the boxes.

7 MR. BERRY: Okay.

8 SPECIAL AGENT CONSOULIN: I am not here to
9 put words in your mouth.

10 MR. BERRY: Well, it sounds like you want
11 me to say something that I can't say.

12 SPECIAL AGENT CONSOULIN: I am here to ask
13 you to tell me the truth, sir.

14 MR. BERRY: I am trying to.

15 SPECIAL AGENT CONSOULIN: I think maybe
16 you had those gauges in those boxes and they were not
17 in your inventory, and instead of being caught with
18 them, you said the boxes were empty.

19 MR. BERRY: Okay. Fair enough.

20 SPECIAL AGENT CONSOULIN: Is that what
21 happened?

22 MR. BERRY: No, sir. I can't honestly say
23 at this time. It could be. That could have been the
24 case.

25 SPECIAL AGENT CONSOULIN: Well, you would

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1 be the one to know.

2 MR. BERRY: I know that those gauges were
3 going back and forth, and we were having them checked
4 out to see what we could do with them. If they were
5 in the boxes, they could have been.

6 But for me to definitively say yes they
7 were, I cannot.

8 SPECIAL AGENT CONSOULIN: But you should
9 have records that say when you got them back, right?

10 MR. BERRY: Yes, sir.

11 SPECIAL AGENT CONSOULIN: And if we could
12 look at those records to see the date.

13 MR. BERRY: Okay. All my records are
14 currently in the custody of the State Police, and/or
15 my attorney, because of all of this that is going on
16 right now with STI, and the lawsuit and stuff that is
17 involved.

18 SPECIAL AGENT CONSOULIN: Okay. Does
19 (inaudible) have copies of anything?

20 MR. BERRY: I am not sure. He shouldn't
21 have. I don't believe he does.

22 SPECIAL AGENT CONSOULIN: You don't have
23 any copies of any records?

24 MR. BERRY: I have some records. I don't
25 have those, most of those, I can tell you right now,

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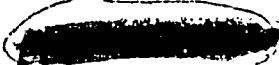
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1 because that is what is in question.

2 SPECIAL AGENT CONSOULIN: And who is your
3 attorney, Mr. Berry?

4 MR. BERRY:  A

5 SPECIAL AGENT CONSOULIN: Is that the same
6 individual who was here the last time that I spoke
7 with you?

8 MR. BERRY: Yes, sir.

9 SPECIAL AGENT CONSOULIN: And the records
10 regarding the gauges, would he have all of them that
11 you don't have?

12 MR. BERRY: I don't know if he has them
13 all or the State Police have them all.

14 SPECIAL AGENT CONSOULIN: Well, if them
15 have them, then he should have copies of them.

16 MR. BERRY: As far as the gauges, to be
17 honest with you, they probably could have been here,
18 and I think they probably were, but I don't know a
19 hundred percent for sure.

20 SPECIAL AGENT CONSOULIN: That is not what
21 I am getting at.

22 MR. BERRY: Okay.

23 SPECIAL AGENT CONSOULIN: What I am
24 getting at is that you provided information to the NRC
25 that those boxes were purchased empty, and that there

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1 was nothing in them.

2 MR. BERRY: I do not remember ever saying
3 that those boxes were purchased empty. That I do not
4 remember at all.

5 SPECIAL AGENT CONSOULIN: Well, like I
6 said, Mr. Berry, those were the statements from the
7 two individuals that were here that day.

8 MR. BERRY: Okay.

9 SPECIAL AGENT CONSOULIN: And that's why
10 I am here today.

11 MR. BERRY: I understand.

12 SPECIAL AGENT CONSOULIN: It is to talk to
13 you about that.

14 MR. BERRY: I don't believe that I said
15 that the boxes were purchased empty. Now, if I did
16 say that, then I definitely mis-spoke, or I definitely
17 -- well, I don't believe I said that they were
18 purchased empty.

19 And I am telling you right now they were
20 not purchased empty, and that is the truth.

21 MR. BERRY: Mr. Fuller, did you recall
22 telling me that he said they were purchased empty
23 during your conversation with him?

24 MR. FULLER: Yes.

25 MR. BERRY: Okay.

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1 MR. FULLER: You (inaudible).

2 SPECIAL AGENT CONSOULIN: From what you
3 can recall talking to (inaudible).

4 MR. FULLER: And I am not going to ask you
5 what you recall, but I will just tell you what I
6 recall. When I arrived here, I recall you telling me
7 that you (inaudible) --

8 MR. BERRY: No gauges?

9 MR. FULLER: That you had no gauges here,
10 and that your gauges were -- that Qual-a-Check
11 (phonetic) had just shown up that day to pick up your
12 two gauges to take them to their facility to e
13 calibrated, and checked out, or something.

14 And so you seemed to indicate to me that
15 you -- you know, you were apologetic, and sorry you
16 came all this way, and sorry you don't get to do an
17 inspection.

18 And I said we are really here to follow up
19 on the security issue, and this was right after
20 September 11th, and so forth, and security was
21 something we were very focused on, and I said there
22 were other things that I could do.

23 And so I went ahead and did an inspection,
24 an then when I asked you where you normally stored
25 those two gauges, and you told me that it was back

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1 here in the shop.

2 MR. BERRY: Right.

3 MR. FULLER: And I said can you show them
4 to me, and so we went back there, and when we got to
5 like this storm door here, you stopped and said, now,
6 I know that I told you that I didn't have any gauges
7 in here, but there are two gauges in there, but they
8 are leased gauges that you had leased from Qual-a-
9 Check (phonetic).

10 And you said that those gauges you had
11 leased while your gauges were out in case something
12 came up while your gauges were being serviced. So we
13 went on and looked into the storage location there,
14 and we talked about the fact that you didn't have a
15 top (inaudible), and you thought that was something
16 that you could improve with the security.

17 And I indicated at that time that the
18 security that you had was in compliance with the
19 rules, because your outer doors were locked, and your
20 roll-up doors or whatever were locked, and
21 (inaudible), but that I agreed that the security could
22 be improved by putting a top on the top of that
23 storage unit.

24 So then you went ahead and opened the
25 storage area and there were the two gauges from All

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1 Tech, that were in regular yellow plastic (inaudible).
2 So I took an inventory of those.

3 And then, and I was facing one way where
4 those gauges were, and then sort of to my rear was
5 where the four wooden boxes were.

6 MR. BERRY: Okay.

7 MR. FULLER: And so when I noticed those,
8 you said, oh, by the way, those are just empty wooden
9 boxes that I picked up that I am going to refinish.
10 I think they will look really nice when we refinish
11 them.

12 And then we had a conversation about
13 refinishing old antique furniture and things like
14 that, because that is one of my hobbies. That's why
15 I remember some of the details of the boxes, because
16 I remember the conversation that we had after that
17 about refinishing old furniture and so forth.

18 So at that time, I took your word for it,
19 that those were just four empty boxes that you had
20 come across that were old trunks or boxes, and that
21 you had come across, and I just took you at your word.
22 And I didn't pursue that anymore.

23 And then when I went to look at your
24 inventory records, I noticed that the two gauges that
25 you had sent to be repaired, and one of the leased

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1 gauges that you had told me that you had leased from
2 Qual-a-Check (phonetic) was being carried on
3 inventory. So you had three gauges here on inventory
4 (inaudible).

5 So that is what I recall from this
6 particular issue about this. There are other things
7 that I did look into during that inspection that
8 related to just signatures, and related to annual
9 reviews of your program, leak tests, and so for and so
10 on. Things that you would normally inspect as part of
11 your safety program. And that is what I recall about
12 that.

13 MR. BERRY: And I believe that you are
14 correct. I believe that that is a fair assessment.

15 SPECIAL AGENT CONSOULIN: Okay. So when
16 Mr. Fuller asked you about the boxes, you said there
17 were four boxes that you had picked up. Explain that
18 to me. I want to clarify that once again.

19 MR. BERRY: Okay. Now, even with what you
20 just said, I don't believe I ever said that I
21 purchased the boxes empty. Yes, I picked up the
22 boxes, but I believe I picked up the boxes, but they
23 had gauges in them. But I know that I can't use those
24 boxes to transport those gauges.

25 And eventually when I get ready to use

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1 those boxes, I will have to purchase new boxes, and I
2 know that. And I believe that there probably were
3 some of those gauges here, if not all of them. I am
4 being totally honest with you.

5 But I also know that we were also having
6 some of those checked out. Correct, at about that
7 time, Qual-a-Check (phonetic) was doing calibrations
8 on my gauges.

9 So I don't know a hundred percent for sure
10 whether they were all here, or they had some of them,
11 or what the exact situation was that day. But that is
12 correct, and what you said is correct, and I admit to
13 that.

14 And I am going to be honest with you and
15 I am going to admit to you that I probably
16 misrepresented and lied that day. And I am going to
17 tell you that straight up.

18 SPECIAL AGENT CONSOULIN: Okay. Well,
19 based on your recollection what do you recall lying
20 about?

21 MR. BERRY: That those boxes were empty.

22 SPECIAL AGENT CONSOULIN: So you told Mr.
23 Fuller that they were empty, with the knowledge that
24 they may not have been empty?

25 MR. BERRY: Yes, sir.

1 SPECIAL AGENT CONSOULIN: All right. And
2 for that reason -- what was the reason for that?

3 MR. BERRY: We had been going through a
4 very tough busy year, and I had not gotten all my
5 paperwork up to date.

6 MR. FULLER: So you knew that you were not
7 carrying them in your inventory in other words?

8 MR. BERRY: Correct, on my inventory
9 sheet.

10 SPECIAL AGENT CONSOULIN: So the question
11 that I asked you earlier, or the situation I asked you
12 earlier about, that you possibly had some gauges, and
13 maybe not all four of them, but some gauges in those
14 boxes that you did not carry on your inventory.

15 And so you told Mr. Fuller that the boxes
16 were empty to avoid him looking in there.

17 MR. BERRY: Correct.

18 SPECIAL AGENT CONSOULIN: And seeing them
19 in there. That is what I am getting at, Mr. Berry.

20 MR. BERRY: Okay.

21 SPECIAL AGENT CONSOULIN: And the
22 information that Mr. Fuller and Ms. Cooke provided to
23 me that you had mentioned that you had provided boxes,
24 or you had purchased the boxes with the intent or
25 understanding that you were going to refurbish them,

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1 and were doing woodworking, is correct, and that is
2 the one issue that I was looking at.

3 MR. BERRY: Okay.

4 SPECIAL AGENT CONSOULIN: That was a
5 statement that you had made that was verified by two
6 inspectors in the lobby that day.

7 MR. BERRY: Okay. And I am not sure. I
8 don't remember the conversation. I know that is an
9 intent of mine, and something that I wanted to do.
10 But whether or not I exactly had that conversation
11 that day, and for me to say, yes, I did, it is
12 possible.

13 Now, it seems to like maybe there was a
14 conversation about that, but I don't remember for
15 sure.

16 SPECIAL AGENT CONSOULIN: All right.
17 Especially at this time of the year for every
18 different kind of company, you are always behind, or
19 some people fall behind, and that is understandable,
20 and nobody is perfect.

21 But we are out here trying to determine
22 information that I was provided, or that I read over
23 and which didn't add up to what you had said the last
24 time I had spoke with you.

25 MR. BERRY: Okay.

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1 SPECIAL AGENT CONSOULIN: Okay. And those
2 boxes were not empty as they were lead to be, and as
3 you said they were.

4 MR. BERRY: Okay.

5 SPECIAL AGENT CONSOULIN: And the possible
6 reason that you said that was because you didn't have
7 a chance to put them in the inventory.

8 MR. BERRY: Correct.

9 SPECIAL AGENT CONSOULIN: Would that be a
10 fair statement to make?

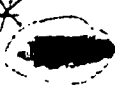
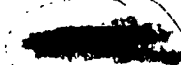
11 MR. BERRY: That would be a more than fair
12 statement.

13 SPECIAL AGENT CONSOULIN: Okay. Are they
14 back in your inventory now, all four gauges?

15 MR. BERRY: Yes, sir.

16 SPECIAL AGENT CONSOULIN: Okay. And have
17 you gotten a determination as to whether they are
18 going to be repairable? *who?*

19 MR. BERRY: It is possible that they can
20 be repaired.

21 SPECIAL AGENT CONSOULIN: Do you have any
22 employees that were working here during that time
23 frame? I know that Mr. Fuller spoke with a *** 
24  Is he still employed here?

25 MR. BERRY: No, sir.

1 SPECIAL AGENT CONSOULIN: Who is employed
2 here right now?

3 MR. BERRY: I have [REDACTED] *

4 SPECIAL AGENT CONSOULIN: [REDACTED]
5 Is he available today?

6 MR. BERRY: He is on a job right now. He
7 may be available later.

8 MR. FULLER: When did Mr. Fuller come to
9 work for you?

10 MR. BERRY: April

11 MR. FULLER: This past April?

12 MR. BERRY: Yes.

13 MR. FULLER: So he was not here when you
14 purchased the gauges in June?

15 MR. BERRY: No.

16 SPECIAL AGENT CONSOULIN: He was here the
17 last time that I interviewed you.

18 MR. BERRY: I believe so.

19 SPECIAL AGENT CONSOULIN: Who else is
20 employed here other than yourself?

21 MR. BERRY: Currently, that is the only
22 one that I have that is working right now.

23 MR. FULLER: [REDACTED]

24 [REDACTED] *

25 MR. BERRY: [REDACTED]

CONT

1 MR. FULLER: [REDACTED]
2 MR. BERRY: [REDACTED]
3 MR. FULLER: [REDACTED]
4 [REDACTED] *

5 MR. BERRY: [REDACTED]
6 SPECIAL AGENT CONSOULIN: [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]

10 MR. BERRY: [REDACTED]
11 SPECIAL AGENT CONSOULIN: [REDACTED]
12 [REDACTED]

13 MR. BERRY: [REDACTED]
14 SPECIAL AGENT CONSOULIN: [REDACTED]
15 [REDACTED]

16 MR. BERRY: [REDACTED]
17 SPECIAL AGENT CONSOULIN: Do you have
18 anything else?

19 MR. FULLER: I have one thing, or actually
20 two things. One is I definitely want to go back and
21 take at your inventory today.

22 MR. BERRY: Sure.
23 MR. FULLER: We are here and I have got to
24 look.
25 MR. BERRY: Okay.

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1 MR. FULLER: I have to put my eyeballs on
2 everything today.

3 MR. BERRY: Okay.

4 MR. FULLER: And the other thing was that
5 this other person that you mentioned that works for
6 Mr. Booth as a QA auditor, does he get involved in
7 auditing? I mean, I don't understand exactly all the
8 details, but does he work just for the other
9 companies?

10 Let's see. There is Booth and Associates,
11 right?

12 MR. BERRY: Un-huh.

13 MR. FULLER: And Construction you called
14 it, right; is that correct?

15 MR. BERRY: Yes. They are an engineering
16 and technical services company.

17 MR. FULLER: And does he only work there
18 or did he just help you out that day, or does he also
19 get involved in, say, maybe auditing of All Tech?

20 MR. BERRY: Yes, he would audit us. Yes.

21 MR. FULLER: And how long has he worked?

22 MR. BERRY: Don has been there since --
23 well, '99, maybe August or September. Actually before
24 myself.

25 SPECIAL AGENT CONSOULIN: He actually

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1 works in the building that (inaudible) and where I
2 went last time?

3 MR. BERRY: Yes, and they have moved now,
4 too. They are on 200 South Main.

5 SPECIAL AGENT CONSOULIN: Okay.

6 MR. BERRY: And he does auditing for
7 quality assurance, quality control programs like
8 (inaudible) welding well certification, and that type
9 of thing, quality control, and (inaudible) situations
10 and that type of thing.

11 MR. FULLER: So he is not like just an
12 internal auditor? He is employed to provide those
13 services outside of it?

14 MR. BERRY: Correct, and he is also our QA
15 manager for both companies.

16 MR. FULLER: Okay. That's what I wanted
17 to find out.

18 SPECIAL AGENT CONSOULIN: Mr. Berry, have
19 you spoken with Mr. Booth or anyone with Booth and
20 Associates that owns this company regarding the
21 inspection that you had with Mr. Fuller back in
22 February of 2002 with the information that you
23 provided me that is now inadequate?

24 MR. FULLER: No, sir.

25 SPECIAL AGENT CONSOULIN: So this is the

1 first time that you shared this to anyone?

2 MR. FULLER: That's correct.

3 SPECIAL AGENT CONSOULIN: Mr. Berry, is
4 there anything that you care to add to the record
5 before I close it up?

6 MR. BERRY: No.

7 SPECIAL AGENT CONSOULIN: Okay. Mr.
8 Berry, I have a couple of questions to ask you before
9 we close up. Have I or any other NRC employee
10 threatened you or promised you anything in return for
11 your testimony here today?

12 MR. BERRY: N, sir.

13 SPECIAL AGENT CONSOULIN: And have you
14 given this statement freely and voluntarily?

15 MR. BERRY: Yes, sir.

16 SPECIAL AGENT CONSOULIN: Okay. This
17 interview is concluded at 9:30 on April 9th, 2003.

18 (Whereupon, at 9:30 a.m., the interview
19 was concluded.)

20

21

22

23

24

25

CERTIFICATE

This is to certify that the attached proceedings
before the United States Nuclear Regulatory Commission
in the matter of:

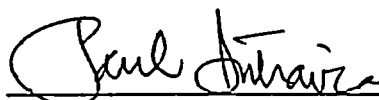
Name of Proceeding: Interview of

Billy H. Berry

Docket Number: 4-2003-012

Location: Pocatello, Idaho

were held as herein appears, and that this is the
original transcript thereof for the file of the United
States Nuclear Regulatory Commission taken by me and,
thereafter reduced to typewriting by me or under the
direction of the court reporting company, and that the
transcript is a true and accurate record of the
foregoing proceedings as recorded on tape(s) provided
by the NRC.



Paul Intravia
Official Transcriber
Neal R. Gross & Co., Inc.

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

EXHIBIT 5

EXHIBIT 5

INTERVIEW REPORT
WITH
DONALD W. BROWN

On April 9, 2003, Donald W. BROWN, Manager, Quality Assurance, Booth and Associates, Inc., Pocatello, Idaho, was interviewed by Special Agent Brian D. Gonsoulin, Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region IV (RIV), and Michael FULLER, Senior Health Physicist, Nuclear Materials Inspection Branch, Division of Nuclear Materials Safety, NRC:RIV. BROWN was interviewed regarding an allegation that Billy BERRY, Manager/Radiation Safety Officer, All Tech Corporation (ATC), Pocatello, Idaho, an NRC licensee, failed to provide accurate and complete information to the NRC concerning ATC's possession of radioactive material. This report relates, in substance, information provided by BROWN.

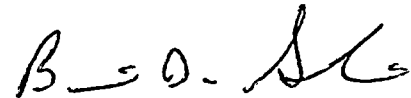
BROWN stated he had been employed by Booth and Associates for 5 years and conducted audits for Richard E. BOOTH, III, President, Booth and Associates. BROWN said ATC was owned by Booth and Associates and he [BROWN] said BOOTH required him to maintain accurate accounting of the assets he [BOOTH] owned. BROWN stated he was made aware by BOOTH that BERRY wanted to purchase five moisture density gauges from a company named Desert Southwest Consultants, Henderson, Nevada. BROWN said he was not aware of the particulars surrounding the purchase of the gauges, but said BERRY learned about the gauges from a friend of his named Bret MCGOWEN [NFI]. BROWN said BOOTH told him of the deal, and BERRY subsequently purchased the gauges from Desert Southwest Consultants. BROWN said he had no contact with the gauges until he was asked by BOOTH to conduct an audit on ATC in October 2002. BROWN said he began preliminary audit proceedings on ATC by reviewing documentation relative to ATC's inventory as it was maintained by BERRY. BROWN stated the document review began shortly before October 9, 2002, but was unsure of the actual date. BROWN said he planned to conduct a physical audit of ATC's inventory subsequent to his document review.

According to BROWN, he scheduled a physical audit of ATC for October 14, 2002, but was unable to make that appointment because he was involved in an automobile accident that day. BROWN said he was able to conduct the audit on October 15, 2002. BROWN said he had heard local reports of two density gauges being recovered on October 13, 2002, in the Portneuf River near Pocatello, Idaho, and said he was unaware if the recovered gauges belonged to ATC. BROWN said that on the morning of October 15, 2002, he and BERRY conducted a physical audit of the gauges in ATC's inventory. According to BROWN, BERRY had four boxes stacked two high in ATC's inventory room which contained four of the gauges purchased from Desert Southwest Consultants. BROWN said when he and BERRY opened the two bottom gauge boxes, they were empty. According to BROWN, BERRY claimed he had no idea the gauges were missing until he [BERRY] opened the boxes. BROWN stated BERRY told him

he [BERRY] conducted inventory on the gauges by just assuring the boxes were intact and chained together, not by opening the boxes and checking inside. BROWN said BERRY told him he [BERRY] had no idea how long the gauges could have been missing. BROWN said subsequent to the discovery of the missing gauges, he contacted the Pocatello Police Department (PPD), notified them of the missing gauges, and provided them with serial numbers. BROWN said BERRY was later contacted by the PPD and told the gauges recovered in the Portneuf River were ATC's.

AGENT'S NOTE: BROWN could not recall when ATC received the gauges from Desert Southwest Consultants, but he provided OI:RIV with a copy of the Internal Audit Report he presented to BOOTH on ATC which indicated ATC received the gauges from Desert Southwest Consultants on June 28, 2001.

This report was prepared on April 14, 2003, from agent's notes.

A handwritten signature in black ink, appearing to read "B. D. Gonsoulin", written over a horizontal line.

Brian D. Gonsoulin, Special Agent
Office of Investigations, Region IV

EXHIBIT 6

EXHIBIT 6

BOOTH & ASSOCIATES, INC.

Engineering and Technical Service
P.O. Box 2046 Pocatello, Idaho 83206

Tel: (208) 234-2847 Fax: (208) 234-2987
email: booassoc@ida.net

FOLLOW-UP AUDIT Internal Audit Report – All Tech Corporation

Audit Date: October 15, 2002

Audit Location: All Tech Corporation
2925 Garrett Way
Pocatello, Idaho 83205

Audit Subject/Criterion: Radioactive Materials License for All Tech Corp. with the U S Nuclear Regulatory Commission, and Safeguard Measures & Accountability of Moisture Density Gauges.

Personnel Contacted During Audit:

Mr. Richard Booth, III, President Booth & Associates
Mr. Billy H. Berry, General Manager, All Tech Corp.
Officer Kirk W. Howe, Pocatello Police Department

Narrative Report:

Recent events involving actions of former personnel of All Tech Corporations warranted the necessity to audit the nuclear license, safeguards, and the accountability of nuclear density gauges entrusted at All Tech Corp. Originally the audit was proposed end of second week of October, 2002, but due to unforeseen delays the audit was conducted on October 15, 2002.

All Tech Corp. is operating under Nuclear Regulatory License number 11-27657-01 issued on February 22, 2000, and on March 25, 2000 All Tech Corp. purchased two (2) Troxler Moisture Density Gauges Series 3411-B's, Serial Number(s) 11778 & 11779, from Nuclear Testing Services, PO Box 26723, Salt Lake City, UT 84115 (Copy Attached #1).

Mr. Berry is currently purchasing an additional Troxler Nuclear Gauge Series 3411, Serial Number 10451, purchased from Qual-Tek Association; 101 Technical Drive, Idaho Falls, Idaho 83401 dated September 10, 2002 (Invoice Attachment #3). It was noted during the audit that Mr. Berry stated that All Tech Corp. had utilized rental Gauges but they had been returned at the time of the audit, and audit focused on the permanent gauges, which All Tech Corporation possesses.

Page 1 of 5

2003-0-3

EXHIBIT 6
PAGE 1 OF 31 PAGE(S)

A review of the documentation Mr. Berry provided a copy of SAFETY AND COMPLIANCE INSPECTION, NRC Form 591, Part 1, NRC Inspector Mr. Randy R. Erickson, Region IV, dated October 24, 2000, which stated they had "no findings" (Copy Attached #2).

Mr. Berry provided a **PHYSICAL INVENTORY OF NUCLEAR SOURCES** form dated October 14, 2002 (Attachment #4):

Serial Number:	Make:
11778	Troxler 3411
11779	" " "
3835	CPN MC-3
1668	Troxler 2401
2813	" " "
1442	" " "
2744	" " "
10451	Troxler 3411

Note: Troxler Gauges Numbers 1442 & 2744 were found missing during the audit's fiscal count.

During the audit it was ascertained that the one (1 each) CPM MC-3 Serial #3835, and the four (4 each) Troxler 2401 gauges serial numbers 1668, 2813, 1442, and 2744 were obtained by All Tech Corp. from Mr. Jay Maccia, Desert Southwest Consultants, 745 W. Sunset Road, Suite 4, Henderson, Nevada 89015, on Bill of Lading dated June 28, 2001 (Attachment #5), Nevada State Health Division Radioactive Material License Number 00-11-0385-01 (Attachment #6).

In addition during the documentation portion of the audit it was ascertained that the Nuclear Regulatory Commission correspondence regarding a Notice of Violation Report Number 030-35321/02-01, dated March 11, 2002, and associated NRC Report 030-35321/02-01, dated May 9, 2002, which will be addressed outside of this audit.

Concern/Recommendation #1: It was noted during the audit that quality affecting records were being stored in other than a fire rate cabinet, and it is recommended that those records be transferred to the fire rated cabinet for safekeeping.

That conclude the documentation review portion of the audit, and focused on the physical accountability of the Nuclear Moisture Density Gauges. It was noted that the Designated Nuclear Storage Facility, contained in the material testing laboratory, had been posted with warning signs, and was locked with a key, but the partition is made of wood, and did not have a roof (providing access to theft by lifting the gauges over the walls with a ladder), Officer Howe of the Pocatello Police Department commented on that situation.

Audit Finding #1: It is imperative that a more secure enclosure be made or available to provide positive control and safeguards of the nuclear gauges as soon as possible.

Mr. Berry provided access to and opened each and every Nuclear Transport/Containment Box, and verified jointly with the lead auditor each box and corresponding nuclear gauge by serial number. The last four (4) boxes procured from Nevada were chained together with padlocks and Mr. Berry said they were out of service. The Audit required a physical account of those as well for positive accountability, and Mr. Berry opened those as well. When these boxes were opened the top boxes were fine, but the bottom two (2) boxes were empty (this occurred approximately 11:30 am).

Mr. Richard Booth, III was immediately summoned and responded to ATC Office in a matter of minutes. He was appraised of the situation and gave direction to commence notification of the local Law Authorities, and the Nuclear Regulatory Commission.

Patrol Officer Kirk W. Howe, of the Pocatello Police Department arrived on the scene within approximately 15-20 minutes later and commenced his investigation. After obtaining his information for the report he took pictures (4) of similar nuclear gauges. Officer Howe left after attaining his information (Report #02-P22581), and Mr. Berry secured the remaining nuclear gauges.

Audit Finding #2: The Audit discovered that there are two (2) Troxler Nuclear Density Gauges missing, and All Tech Corp. needs to identify what corrective action(s) it needs to identify root cause(s), and steps to prevent reoccurrence. A recommended corrective action is to develop a physical accountability on at least on a thirty-day cycle, including the opening of all storage or transfer containers to verify the serial numbers and equipment's acceptability.

Audit Summary:

The audit resulted in two (2) Findings, and one (1) Concern/Recommendation. All Tech Corp. needs to establish effective methods of insuring physical control of their nuclear density devices and recommends fire proof file cabinets be utilized for document storage.

FOLLOW-UP AUDIT REPORT-DECEMBER 20, 2002

This is a follow-up Audit Report conducted at the All Tech Corporation, in Pocatello Idaho, with Mr. Billy H. Berry, General Manager, on the date referenced above.

The first question Mr. Berry was asked was have you had any communication written or telephone with the U.S. Nuclear Regulatory Commission since incident documented herein on October 14, 2002? Mr. Berry's response was that he called the NRC Hot-line (Reference NRC Incident #39287) to report the "initial event", and that he called the NRC Hot-line the second time on November 4, 2002. to report that the missing gauges were returned to Mr. Berry's possession, and secured in the storage area at ATC.

The second question was: Have you communicated via report or any other means by writing with the NRC? Mr. Berry said no, it was not required, but he had made notes in case he should be questioned or need a report, and he provided his written notes which he copied (see Attachment #9).

Corrective actions evaluation of Concern #1: Mr. Berry removed the Nuclear Related Correspondence and placed them in the fireproof cabinet, and changed procedures to secure the Nuclear Storage Cabinet Keys to the fire proof file cabinet for safekeeping during off-hours.

These actions were deemed "acceptable" and closed out, but follow-up surveillance's will be conducted over the next year to verify continued resolution remains acceptable.

Corrective Action Evaluation of Audit Finding #1: A wooden roof was added and secured on the cement masonry blocks on the walls of the Nuclear Storage Area, and the Keys to the Nuclear Devices are being now secured, and locked in the fire proof cabinet in during off hours.

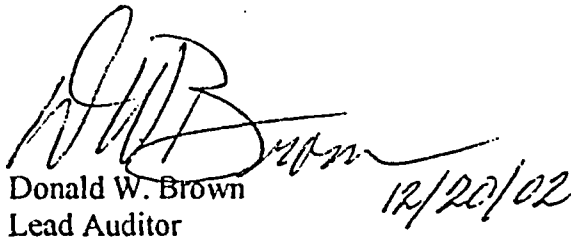
These Corrective Actions meet NRC requirements/directives at this time, however will be monitored for any future directives from the Commission regarding possible changes of safeguard requirements for Nuclear Secure Storage Areas. This Audit finding is considered closed.

Corrective Action Evaluation of Audit Finding #2: While the missing nuclear gauges were recovered by Agents of the Idaho State Police, and returned to the designated ATC Nuclear Storage Area the "Root Cause" remains indeterminate pending the investigation findings of who, and how the nuclear gauges got into the river? This portion of the Audit Finding remains "open" pending the investigation results from **Mr. Pat Mooney, Criminal Environmental Investigation of the Idaho State Police.**

The corrective actions for this Audit Finding remains "open-pending root cause determination" and determination of the Idaho State Polices Criminal Investigation Finding(s).

An additional concern was discovered: During the follow-up Audit verbally it was discovered that during the conversation with the "NRC Hot-Line" on this date (December 20, 2002 at approximately 3:40pm), the initial notification with NRC Hot-Line Personnel took place with Mr. Berry and the NRC.

According to NRC personnel from Region 4, the Materials Branch, informed that they required a more detailed subsequent "Incident Report" as well as, the verbal notice. The written Incident Report was not performed, and ATC needs to satisfy NRC Directives.


Donald W. Brown
Lead Auditor
12/20/02

Cc:

Richard E. Booth, III, President
file

NUCLEAR TESTING SERVICES

Anytime

Anywhere

Specializing in Nuclear Moisture Density
TESTING, LEASING, REPAIR

P.O. Box 26723
Salt Lake City, Utah 84125

1515 Major Street • Salt Lake City, Utah 84115 • (801) 467-3892

March 25, 2000

All Tech Corporation
Attn: Billy Berry
2925 Garrett Way
Pocatello, ID 83201

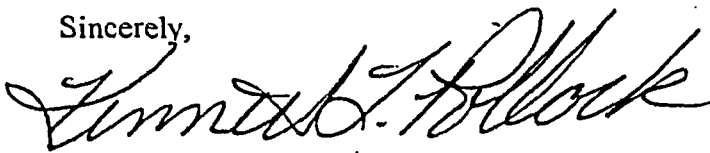
RE: Transfer of S/N's 11778 & 11779

Dear Mr. Berry,

This letter is to acknowledge the transfer of two (2) Troxler Moisture Density Gauges series 3411-B, S/N's 11778 & 11779 from Nuclear Testing Services to All Tech Corporation.

These gauges come complete with a standard blocks, chargers, site plates, drive pins, pin pullers, transport cases and all applicable paper work.

Sincerely,



Kenneth L. Pollock
Nuclear Testing Services

EXHIBIT 6

PAGE 6 OF 31 PAGE(S)

NTS

4-2003-012

SAFETY AND COMPLIANCE INSPECTION

1. LICENSEE

All Tech Corporation
P.O. Box 4728
Pocatello, Idaho 83205

2. REGIONAL OFFICE

REGION IV
US NUCLEAR REGULATORY COMMISSION
611 RYAN PLAZA DR STE 400
ARLINGTON, TX 76011-8064

REPORT NUMBER(S) 00-01

3. DOCKET NUMBER(S)

030-35321

4. LICENSE NUMBER(S)

11-27657-01

5. DATE(S) OF INSPECTION

October 24, 2000

LICENSEE:

The inspection was an examination of the activities conducted under your license as they relate to radiation safety and to compliance with the Nuclear Regulatory Commission (NRC) rules and regulations and the conditions of your license. The inspection consisted of selective examinations of procedures and representative records, interviews with personnel, and observations by the inspector. The inspection findings are as follows:

- ☒ 1. Based on the inspection findings, no violations were identified.
- ☐ 2. The violation(s), specifically described to you by the inspector as non-cited violations, are not being cited because they were self-identified, non-repetitive, and corrective action was or is being taken, and the remaining criteria in the NRC Enforcement Policy, NUREG-1600, to exercise discretion, were satisfied.
- _____ non-cited violation(s) were discussed involving the following requirement(s):

- ☐ 3. During this inspection certain of your activities, as described below and/or attached, were in violation of NRC requirements and are being cited. This form is a NOTICE OF VIOLATION, which is required to be posted in accordance with 10 CFR 19.11.

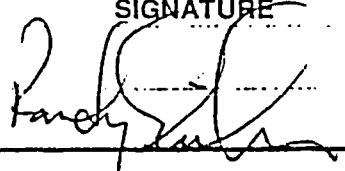
1 - 2000 - 012

EXHIBIT 6

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STATEMENT OF CORRECTIVE ACTIONS

I hereby state that, within 30 days, the actions described by me to the Inspector will be taken to correct the violations identified. This statement of corrective actions is made in accordance with the requirements of 10 CFR 2.201 (corrective steps already taken, corrective steps which will be taken, date when full compliance will be achieved). I understand that no further written response to NRC will be required, unless specifically requested.

TITLE	PRINTED NAME	SIGNATURE	DATE
LICENSEE			
NRC INSPECTOR	Randy R. Erickson		10/24/00



GAUGE SALE INVOICE

Professionals Servicing Professionals

101 Technology Drive

Idaho Falls, ID 83401

(208) 523-5557

E-Mail: qal-tek@iidtr.com : www.qaltek.com

INVOICE NO:1059.0

DATE: 9/10/02

BILLED TO: ATC

Company Name: ATC

Address: 2925 Garrett Wy. Pocatello, ID

Phone #: 208-478-5945

Person To Contact:

Purchase Order #:

QTY	GAUGE SOLD	SERIAL#	TOTAL AMT	DESCRIPTION/ COMMENTS			
1	Troxler 3411	10451	\$2850.00	(\$2000 was in rental pricing)			
				OTHER CHARGES			AMT
Date Gauge Sold: 9/10/02			TOTAL: \$850.00				\$
QTY	MATERIALS / PARTS USED	\$/PART	TOTAL COST				\$
			\$	LABOR	HRS	RATE	AMT
			\$			\$	\$
			\$			\$	\$
			\$	TOTAL SERVICE + LABOR:			\$
TOTAL :			\$	TOTAL MATERIALS:			\$

RECEIVED BY: G. TAD

CUSTOMER SIGNATURE: B. J. J.

DATE: 9/10/02

With my signature, I acknowledge the satisfactory completion of the work described above and authorize payment as indicated below.

OTHER: \$

DISCOUNT: -\$

TAX: \$

TOTAL: \$ 850.00

PAYMENT METHOD:

☐ CASH

☐ CHECK (Check #)

☐ CREDIT CARD

CARD NAME:

CARD #

EXP. DATE:

EXHIBIT 6

PAGE 8 OF 31 PAGE(S)



Instrumentation and Professional Services
Nuclear Density Gauge

Bill of Sale OR Exchange / Transfer

This is a: Bill of Sale ☒ Equipment Exchange ☐ Equipment Transfer ☐

Date of Transaction: 9/10/02

Description of Equipment being SOLD:

<u>Gauge Serial #</u>	<u>Manufacturer</u>	<u>Model</u>	<u>Sale Amount</u>
10451	Troxler	3411	\$1 2850.00 (32000 in Rmt)

Description of Equipment being Exchanged :

<u>Gauge Serial #</u>	<u>Mfgr.</u>	<u>Model</u>
-----------------------	--------------	--------------

<u>Exchanged For:</u>	<u>Equip Serial #</u>	<u>Mfgr.</u>	<u>Model</u>
-----------------------	-----------------------	--------------	--------------

Description of Equipment being TRANSFERRED:

<u>Gauge Serial #</u>	<u>Mfgr.</u>	<u>Model</u>
-----------------------	--------------	--------------

Seller or Transferor

Name: Qal-Tek
Address: 101 Technology Dr.
City/State: Indian Hills, IL 60131
Phone #: (208) 573-5557
NRC License #: 11-27657-01

Buyer or Recipient

Name: ATL
Address: 2925 Garrett Hwy
City/State: Pocahontas, ID 83201
Phone #: (208) 778-5945
NRC License #: 11-27657-01

Seller or Transferor:

[Signature]
Signature Title

Buyer or Recipient:

[Signature] RSO
Signature Title

Additional Terms or Conditions

EXHIBIT 6

PAGE 9 OF 31 PAGE(S)

1-2-03-01

(ATTACHMENT #4)

Physical Inventory of Nuclear Sources

Serial No.	Make	Wipe Test	Calibration	Date	Date	Date	Date	Date	Date
11778	Troxler 3411	✓	8/12/02	2/02	8/2000	2/01	8/01	2/02	8/02
11779	"	✓	8/12/02	2/02	8/2000	2/01	8/01	2/02	8/02
3835	CPN MC-3	✓	8/12/02	2/02			8/01	2/02	8/02
1668	Troxler 2401	✓	2/18/01	Out of Service			8/01	2/02	8/02
2813	"	✓	"	single			8/01	2/02	8/02
1442	"	✓	"	6/28/01			8/01	2/02	8/02
2744	"	✓	"	✓			8/01	2/02	8/02
10451	Troxler 3411	✓	8/12/02	2/02			8/01	2/02	8/02

Date 10/14/02
By: B. Berry
Filed: 10/14/02
By: SAME

Location of Nuclear Densometer other than
Storage: All in Storage

Signature of RO: [Signature]
DATE: 10/14/02

4-2000-03-01-02

BILL OF LADING

SHIPPER: Desert Southwest Consultants
745 W. Sunset Road, Suite 4
Henderson, NV 89015

RQ, RADIOACTIVE MATERIAL, SPECIAL FORM, NOS. 7, UN-2947
TYPE "A" PACKAGE CONTAINING:

Cs-137 0.30 Gbq (8.2 mCi)
Am-241: Be 1.85 Gbq (5.0 mCi)

RADIOACTIVE YELLOW LABEL II, TI=0.5

**** EMERGENCY CONTACT: (919) 839-2676 ****

Sold 6/28/01 By: Jay Maccia

TO: All Tech Corporation
2925 Garrett Way
Pocatello, ID 83201

Gauge Mod.	Serial #	Manufacturer
MC-3	3835	CPN
2401	1668	Troxler
2401	2813	Troxler
2401	1442	Troxler
2401	2744	Troxler

This is to certify that the above named materials are properly classified, described, packaged, marked and labeled, and are in proper condition for transportation according to applicable regulations of the Department of Transportation.

Harold L. Brown
Shipper

Bill B. B. B.
Received

EXHIBIT 6

PAGE 11 OF 31 PAGE(S)

4-2003-012



NEVADA STATE HEALTH DIVISION
RADIOACTIVE MATERIAL LICENSE

Pursuant to Nevada Revised Statute 459.030 and Nevada Administrative Code 459.196 and in reliance on statements and representations heretofore made by the licensee designated below a license is hereby issued authorizing such licensee to transfer, receive, possess and use the radioactive material designated below and to use such radioactive material for the purpose(s) and at the location(s) designated below. This license is subject to all applicable rules, regulations, and orders now or hereafter in effect and to any conditions specified below.

1. Name: Desert Southwest Consultants 2. Address: 745 West Sunset Road No. 4 Henderson, NV 89015	3. License number: 00-11-0385-01 4. Expiration date: June 30, 2001 5.
6. Radioactive material: A. Cesium 137 B. Americium 241 C. Cesium 137 D. Americium 241	7. Chemical and/or physical form: A. Sealed Source (Troxler Dwg. A-102112) B. Sealed Neutron Source (Troxler Dwg. A-102451) C. Sealed Source (Troxler Dwg. A-100281) D. Sealed Source (Troxler Dwg. A-100281)
8. Maximum quantity licensee may possess at any one time: A. No single source to exceed 10 millicuries B. No single source to exceed 44 millicuries C. No single source to exceed 10 millicuries D. No single source to exceed 50 millicuries	

JUN-25-96 TUE 8:28

NHD RAD HEALTH

FAX NO. 7026875751

P.07

Page 2 of 5 pages

NEVADA STATE HEALTH DIVISION

RADIOACTIVE MATERIAL LICENSE

SUPPLEMENTARY SHEET

EXHIBIT 6

PAGE 12 OF 31 PAGE(

4 - 2008 - 012

License Number 00-11-0385-01



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064

March 11, 2002

Mr. Billy Berry, General Manager
All Tech Corporation
P.O. Box 4728
Pocatello, Idaho 83205

SUBJECT: NRC INSPECTION REPORT 030-35321/02-01 AND NOTICE OF VIOLATION

Dear Mr. Berry:

This refers to the inspection conducted on February 11, 2002, at your facility in Pocatello, Idaho. This inspection was an examination of activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations and with the conditions of the license. Within these areas, the inspection consisted of selected examination of procedures and representative records and interviews with personnel. At the conclusion of the inspection, the findings were discussed with you.

Based on the results of this inspection, the NRC has determined that two violations of NRC requirements occurred. The violations were evaluated 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 website at www.nrc.gov/OE. The violations identified during the inspection are cited in the enclosed Notice of Violation (Notice) and involved the failures to: (1) perform annual audits of your radiation protection program; and (2) maintain documentation demonstrating that unmonitored individuals were not likely to exceed 10 percent of the allowable limits, and exchange and evaluate personnel monitoring devices at the required frequency. These violations are being cited in the Notice because they were identified by the NRC during the inspection rather than being self-identified by the licensee.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. For your consideration and convenience, an excerpt from NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION," is enclosed. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/Adams.html> (the Public Electronic Reading Room).

Should you have any questions concerning this inspection, please contact Michael L. Fuller at (817) 860-8164 or Mark R. Shaffer at (817) 860-8287.

Sincerely,



Dwight D. Chamberlain, Director
Division of Nuclear Materials Safety

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

Enclosures:

1. Notice of Violation
2. NRC Information Notice 96-28

cc w/Enclosure 1:
Idaho Radiation Control Program Director

EXHIBIT 6

PAGE 14 OF 31 PAGE(S)

4-2008-0231

ENCLOSURE 1

NOTICE OF VIOLATION

All Tech Corporation
Pocatello, Idaho

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

During an NRC inspection conducted on February 11, 2002, two violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violations are listed below:

- A. 10 CFR 20.1101(c) requires, that the licensee shall periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, the licensee failed to review the radiation protection program content and implementation at least annually during the years 2000 and 2001.

This is a Severity Level IV violation (Supplement IV).

- B. 10 CFR 20.1501(a) requires that each licensee make or cause to be made surveys that may be necessary for the licensee to comply with the regulations in 10 CFR Part 20 and that are reasonable under the circumstances to evaluate the extent of radiation levels, concentrations or quantities of radioactive materials, and the potential radiological hazards that could be present. Pursuant to 10 CFR 20.1003, *survey* means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of radioactive material or other sources of radiation.

Condition 22 of License Number 11-27657-01 states, in part, that licensed materials shall be used in accordance with the statements, representations, and conditions specified in the application dated March 6, 2000.

Item 8 of the application dated March 6, 2000, states, in part, that the licensee will maintain for inspection by NRC documentation demonstrating that unmonitored individuals are not likely to receive 10 percent of the allowable limits in 10 CFR Part 20 or will provide dosimetry processed and evaluated by a *NVLAP*-approved processor that is exchanged at a frequency recommended by the processor.

Contrary to the above, as of February 11, 2002, the licensee did not make surveys to assure compliance with 10 CFR 20.1201(a)(1)(i), which limits the occupational dose to individual adults to an annual limit of 5 rems (0.05 Sieverts) total effective dose equivalent. Specifically, the licensee did not maintain documentation demonstrating that unmonitored individuals were not likely to receive 10 percent of the applicable allowable limits, nor did the licensee exchange quarterly (the frequency recommended by the processor) dosimetry provided to at least three workers for the third and fourth quarters of 2001.

This is a Severity Level IV violation (Supplement IV).

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Pursuant to the provisions of 10 CFR 2.201, All Tech Corporation is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region IV, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. ADAMS is accessible from the NRC Web site at

<http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

Dated this 11th day of March 2002

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS
WASHINGTON, D.C. 20555

May 1, 1996

NRC INFORMATION NOTICE 96-28:

SUGGESTED GUIDANCE RELATING TO DEVELOPMENT
AND IMPLEMENTATION OF CORRECTIVE ACTION

Addressees

All material and fuel cycle licensees.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this information notice to provide addressees with guidance relating to development and implementation of corrective actions that should be considered after identification of violation(s) of NRC requirements. It is expected that recipients will review this information for applicability to their facilities and consider actions, as appropriate, to avoid similar problems. However, suggestions contained in this information notice are not new NRC requirements; therefore, no specific action nor written response is required.

Background

On June 30, 1995, NRC revised its Enforcement Policy (NUREG-1600)¹ 60 FR 34381, to clarify the enforcement program's focus by, in part, emphasizing the importance of identifying problems before events occur, and of taking prompt, comprehensive corrective action when problems are identified. Consistent with the revised Enforcement Policy, NRC encourages and expects identification and prompt, comprehensive correction of violations.

In many cases, licensees who identify and promptly correct non-recurring Severity Level IV violations, without NRC involvement, will not be subject to formal enforcement action. Such violations will be characterized as "non-cited" violations as provided in Section VII.B.1 of the Enforcement Policy. Minor violations are not subject to formal enforcement action. Nevertheless, the root cause(s) of minor violations must be identified and appropriate corrective action must be taken to prevent recurrence.

If violations of more than a minor concern are identified by the NRC during an inspection, licensees will be subject to a Notice of Violation and may need to provide a written response, as required by 10 CFR 2.201, addressing the causes of the violations and corrective actions taken to prevent recurrence. In some cases, such violations are documented on Form 591 (for materials licensees)

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¹Copies of NUREG-1600 can be obtained by calling the contacts listed at the end of the Information Notice.

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which constitutes a notice of violation that requires corrective action but does not require a written response. If a significant violation is involved, a predecisional enforcement conference may be held to discuss those actions. The quality of a licensee's root cause analysis and plans for corrective actions may affect the NRC's decision regarding both the need to hold a predecisional enforcement conference with the licensee and the level of sanction proposed or imposed.

Discussion

Comprehensive corrective action is required for all violations. In most cases, NRC does not propose imposition of a civil penalty where the licensee promptly identifies and comprehensively corrects violations. However, a Severity Level III violation will almost always result in a civil penalty if a licensee does not take prompt and comprehensive corrective actions to address the violation.

It is important for licensees, upon identification of a violation, to take the necessary corrective action to address the noncompliant condition and to prevent recurrence of the violation and the occurrence of similar violations. Prompt comprehensive action to improve safety is not only in the public interest, but is also in the interest of licensees and their employees. In addition, it will lessen the likelihood of receiving a civil penalty. Comprehensive corrective action cannot be developed without a full understanding of the root causes of the violation.

Therefore, to assist licensees, the NRC staff has prepared the following guidance, that may be used for developing and implementing corrective action. Corrective action should be appropriately comprehensive to not only prevent recurrence of the violation at issue, but also to prevent occurrence of similar violations. The guidance should help in focusing corrective actions broadly to the general area of concern rather than narrowly to the specific violations. The actions that need to be taken are dependent on the facts and circumstances of the particular case.

The corrective action process should involve the following three steps:

1. Conduct a complete and thorough review of the circumstances that led to the violation. Typically, such reviews include:
 - Interviews with individuals who are either directly or indirectly involved in the violation, including management personnel and those responsible for training or procedure development/guidance. Particular attention should be paid to lines of communication between supervisors and workers.

- Tours and observations of the area where the violation occurred, particularly when those reviewing the incident do not have day-to-day contact with the operation under review. During the tour, individuals should look for items that may have contributed to the violation as well as those items that may result in future violations. Reconstructions (with or use of radiation sources, if they were involved in the original incident) may be warranted to better understand what actually occurred.
- Review of programs, procedures, policies, and practices that relate directly or indirectly to the violation. The program should be reviewed to ensure that its overall objectives and requirements are clearly stated and implemented. Procedures should be reviewed to determine whether they are complete, logical, understandable, and meet their objectives (i.e., they should ensure compliance with the current requirements). Records should be reviewed to determine whether there is sufficient documentation of necessary tasks to provide an auditable record and to determine whether similar violations have occurred previously. Particular attention should be paid to training and qualification records of individuals involved with the violation.

2. Identify the root cause of the violation.

Corrective action is not comprehensive unless it addresses the root cause(s) of the violation. It is essential, therefore, that the root cause(s) of a violation be identified so that corrective action can be taken to prevent further noncompliance in this area, as well as other potentially affected areas. Violations typically have direct and indirect causes. As each cause is identified, ask what other factors could have contributed to the cause. If it is no longer possible to identify other contributing factors, the root causes probably have been identified. For example, the direct cause of a violation may be a failure to follow procedures; the indirect cause may be inadequate training, lack of attention to detail, and inadequate time to carry out an activity. These factors may have been caused by a lack of staff resources that, in turn, are indicative of lack of management support. Each of these factors must be addressed before corrective action is considered to be comprehensive.

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3. Take prompt and comprehensive corrective action that will address the immediate concerns and prevent recurrence of the violation.

It is important to take immediate corrective action to address the specific findings of the violation. For example, if the violation was issued because radioactive material was found in an unrestricted area, immediate corrective action must be taken to place the material under licensee control in authorized locations. After the immediate safety concerns have been addressed, timely action must be taken to prevent future recurrence of the violation. Corrective action is sufficiently comprehensive when corrective action is broad enough to reasonably prevent recurrence of the specific violation as well as prevent similar violations.

In evaluating the root causes of a violation and developing effective corrective action, consider the following:

1. Has management been informed of the violation(s)?
2. Have the programmatic implications of the cited violation(s) and the potential presence of similar weaknesses in other program areas been considered in formulating corrective actions so that both areas are adequately addressed?
3. Have precursor events been considered and factored into the corrective actions?
4. In the event of loss of radioactive material, should security of radioactive material be enhanced?
5. Has your staff been adequately trained on the applicable requirements?
6. Should personnel be re-tested to determine whether re-training should be emphasized for a given area? Is testing adequate to ensure understanding of requirements and procedures?
7. Has your staff been notified of the violation and of the applicable corrective action?
8. Are audits sufficiently detailed and frequently performed? Should the frequency of periodic audits be increased?

9. Is there a need for retaining an independent technical consultant to audit the area of concern or revise your procedures?
10. Are the procedures consistent with current NRC requirements, should they be clarified, or should new procedures be developed?
11. Is a system in place for keeping abreast of new or modified NRC requirements?
12. Does your staff appreciate the need to consider safety in approaching daily assignments?
13. Are resources adequate to perform, and maintain control over, the licensed activities? Has the radiation safety officer been provided sufficient time and resources to perform his or her oversight duties?
14. Have work hours affected the employees' ability to safely perform the job?
15. Should organizational changes be made (e.g., changing the reporting relationship of the radiation safety officer to provide increased independence)?
16. Are management and the radiation safety officer adequately involved in oversight and implementation of the licensed activities? Do supervisors adequately observe new employees and difficult, unique, or new operations?
17. Has management established a work environment that encourages employees to raise safety and compliance concerns?
18. Has management placed a premium on production over compliance and safety? Does management demonstrate a commitment to compliance and safety?
19. Has management communicated its expectations for safety and compliance?
20. Is there a published discipline policy for safety violations, and are employees aware of it? Is it being followed?

This information notice requires no specific action nor written response. If you have any questions about the information in this notice, please contact one of the technical contacts listed below.

Elizabeth Q. Ten Eyck, Director
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Donald A. Cool, Director
Division of Industrial
and Medical Safety
Office of Nuclear Material Safety
and Safeguards

Technical contacts: Nader L. Mamish, OE
(301) 415-2740
Internet:nlm@nrc.gov

Daniel J. Holody, RI
(610) 337-5312
Internet:djh@nrc.gov

Bruno Uryc, Jr., RII
(404) 331-5505
Internet:bxu@nrc.gov

Bruce L. Burgess, RIII
(708) 829-9666
Internet:blb@nrc.gov

Gary F. Sanborn, RIV
(817) 860-8222
Internet:gfs@nrc.gov

EXHIBIT 6

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

May 9, 2002

Mr. Billy H. Berry, General Manager
All Tech Corporation
P.O. Box 4728
Pocatello, Idaho 83205

SUBJECT: RESPONSE TO NRC INSPECTION REPORT 030-35321/02-01 AND NOTICE
OF VIOLATION

Dear Mr. Berry:

Thank you for your letter dated April 22, 2002, in response to our letter and Notice of Violation dated March 11, 2002. Based upon our review of your letter and our subsequent telephonic discussion with you on May 7, 2002, we find that you have been responsive to the concerns raised in our Notice of Violation. We will review the implementation of your corrective actions during a future inspection to determine that full compliance has been achieved and will be maintained.

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 Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

Mark R. Shaffer, Chief
Nuclear Materials Inspection Branch

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

cc w/copy of licensee's letter dated 04/22/02:
Idaho Radiation Control Program Director

450003 - 012

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We were planning AN audit of procedures for Nuclear Densometers since 10/9/02. WAS scheduled for 10/14/02 when ~~we~~ our QC Auditor from Booth & Associates was involved in an auto accident. We conducted the audit on 10/15/02. IN reviewing Paperwork we have found Bill of Findings for Transfer in 2001 of Densometers & Leak test Faxed from J. Marcia. We also found file with ~~test~~ Leak Test Data & Badge readings kept in front office missing. We have also had problems with ICN Badges & missing Badges from Personnel (We knew this prior to & had requested the ~~east~~ terminated employees return Badges). We then inventoried the Sealed Sources we had in storage. We normally & have in past keep all cases & Sources intact & stored in our closet. We normally read all serial #'s from the cases. This time we opened all cases & found the bottom 2 cases empty of Sealed Sources. The 2 missing were of that ^(2401.9) purchased from DSW in June 2001.

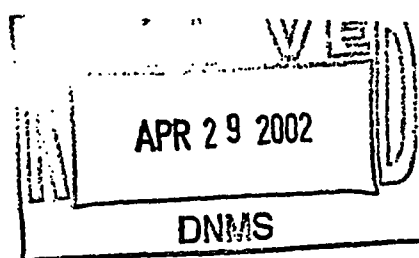
We were also aware of 2 Densometers found by BCSO. They were found N. of LAVA, Id. We called BCSO & they were to refer to Det. Bret Sche ^{EXHIBIT} them.

have him contact us and also then we were to file report with Pocatello Police. We did this & also called NRC Inspector Hotline. We were contacted by Vickie Hansen w/NRC & told to expect a call from Russell Wise of the NRC the we were called by James Thompson of NRC. We informed Mr Thompson of the incident & he informed me to call event Hotline @ 1(301) 816-5100 & Report incident to them This was done @ 15:52 ^{Event # 39289} EDT. We also received call from Doug Walters STATE NRC Liaison & he confirmed ARC found property belonged to ATC.

Pocatello Police Investigation was started by Officer Kirk Howe & case # 02-P22581 on 10/15/02.

Timeline

~ 11:30 Found Missing Sources
Called R. E. Booth



Materials Testing Division
2925 Garrett Way
P.O. Box 4728
Pocatello, Idaho 83205

Tel: (208) 478-5945 • Fax: (208) 478-5946
email: atc@ida.net

REGIONAL ADMINISTRATOR
UNITED STATES NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, STE.# 400
ARLINGTON, TX 76011-8064

April 22, 2002

REPLY TO NOTICE OF VIOLATION

LICENSE #: 11-27657-01

RESPONSE TO NRC INSPECTION REPORT 030-35321/0201 AND NOTICE OF VIOLATION DATED
FEBRUARY 11, 2002.

The following enclosure is in response to the Notice of Violation Docket # 030-35321 date February 11, 2002. Primary answer A is in response to violation A and Primary answer B is in response to violation B and the following is corrective measures taken to prevent any future violations as applied to both. Please feel free to contact me with any questions or concerns.

Respectfully,

Billy H. Berry
General Manager
All Tech Corporation

ADAMS # ML021190455
Template
Date 4/29/02 QC'd by

cc: Document Control NRC Washington; Regional Administrator, Region IV; Mark Fuller, Region IV

EXHIBIT 6
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**Materials Testing Division**

2925 Garrett Way
P.O. Box 4728
Pocatello, Idaho 83205

Tel: (208) 478-5945 • Fax: (208) 478-5946
email: atc@ida.net

REPLY TO NOTICE OF VIOLATION
PRIMARY ANSWER A

This error was caused by an oversight of RSO Billy Berry. Reviews have been completed more frequently than as required by the NRC. However, we have failed to have written annual reviews. Review for 2000/2001 through 2002 is to be complete May 30, 2001 as this notice of violation and its response are to be part of the record.

The root cause of the violation is based on lack of understanding by RSO. Our license is only two years old and this is the second time I have served as RSO. My previous experience was as a back up to the company RSO as an in house RSO, serving under a corporate RSO.

PRIMARY ANSWER B

Violation was caused by failure to receive dosimetry badges from supplier until after beginning date during the 4th quarter. Dosimetry shipment was lost in the mail. They were resent by dosimetry supplier and we received 1st shipment and 2nd shipment within the same timeframe of approximately one week. This caused confusion on our part on the badges and duplicates. The 4th quarter badges were sent to replace of 3rd quarter badges and we had the duplicate badges. All personnel badges were monitored. Confusion by personnel and management caused return of current duplicates for 3rd quarter and some extra 4th quarter badges were still on site upon inspection. 4th quarter duplicate badges were still on site and two people still had 3rd quarter badges or they had not turned in their badges for the correct quarter. Their badges read 3rd quarter, Mr. Clayton Maher & Mr. Bret McGowan. Mr. McGowan terminated employment August 2, 2001. He had less than



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four hours exposure for the 3rd quarter of our sealed source units in the 3rd quarter. Exposure was too small to calculate.

Mr. Maher, at that time, was on aggregate crushing and later on building construction projects. His total use of sealed source was only 28 hours and 12 hours transport during the 3rd quarter. His calculated exposure is less than 1/1000th of the maximum dose annually.

The corrective actions taken will apply to both violations A & B as they apply to our total ALARA and nuclear procedures programs.

The following addresses root cause and corrective action answers to review questions in NRC information notice 96-28 dated May 1, 1996, pages 4 & 5. The corrective actions taken to prevent future occurrence are as follows:

- 1) Other management and key personnel involved in the process and to schedule a date for annual review start in company calendar.
- 2) Support from other personnel to maintain timelines and quality of report
- 3) To aid in compliance with time frame and scheduling annual review will be done at the same time as annual calibrations in January/ February of each year and be complete by annual review date of license.
- 4) Security of sources and material were not issues with these violations.
- 5) HAZMAT Training, operation, and training for all staff on annual review has been conducted and is current for all staff.
- 6) Training is adequate for majority of personnel. RSO has written required procedures and trained selected support personnel in the same procedures and

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written a procedure for compliance with written annual audit requirements for our company.

- 7) Notice of violation posted for 30 days on office bulletin board with response. The notice is also available for review by contacting the RSO.
- 8) Audits will be reviewed for thoroughness and completeness by RSO and one member of administration staff, one member of field personnel, and one member of management other than RSO. Final draft will then be completed and placed in file for NRC review. Badge replacement is responsibility of RSO and one employee with secretarial reminders generated by calendar alarms.
- 9) Outside consulting is unnecessary at this time. We feel the procedures and back up for implementation of procedures will eliminate future recurrence of this violation.
- 10) Procedures now comply with and/or exceed NRC Requirements.
- 11) The annual review is now structured to address any changes in NRC regulations and all the above personnel addressed in #8 will receive copies of new regulations as issued by and/or received from the NRC.
- 12) Staff is required to attend weekly safety meetings. Requirements of the NRC are reviewed at least on a monthly basis.
- 13) We have maintained control over activities for control of nuclear gauge storage and safety. Company violations and warnings have been issued to personnel as per Company policies regarding nuclear gauges. A copy of policies and procedures was obtained by NRC personnel during inspection February 11, 2002.
- 14) Work hours have not impacted safety or security of any nuclear material, employee, or member of the common public.



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- 15) Our organizational structure with RSO & management and by increasing input of other personnel in annual review should increase timeliness, quality, and accuracy of annual audits.
- 16) Management maintains proper supervision over and with not only new employees, but all employees.
- 17) By including and adding all areas of office in annual review input to audit by all employees is encouraged. Employees are encouraged to speak freely about safety concerns and opportunities are afforded at every weekly safety meeting. Employees now have conduit to management through employee representative on review group.
- 18) Management asks weekly at safety meetings for input on any safety questions or concerns.
- 19) Management has continually posted enforced and required compliance of safety issues and, in particular, sealed source safety and security.
- 20) Yes. A copy was received by NRC personnel during on site inspection dated February 11, 2002.

4-2000-012

EXHIBIT 6
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UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064

May 9, 2002

Mr. Billy H. Berry, General Manager
All Tech Corporation
P.O. Box 4728
Pocatello, Idaho 83205

SUBJECT: RESPONSE TO NRC INSPECTION REPORT 030-35321/02-01 AND NOTICE
OF VIOLATION

Dear Mr. Berry:

Thank you for your letter dated April 22, 2002, in response to our letter and Notice of Violation dated March 11, 2002. Based upon our review of your letter and our subsequent telephonic discussion with you on May 7, 2002, we find that you have been responsive to the concerns raised in our Notice of Violation. We will review the implementation of your corrective actions during a future inspection to determine that full compliance has been achieved and will be maintained.

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Sincerely,

A handwritten signature in black ink, appearing to read "Mark R. Shaffer", written over a horizontal line.

Mark R. Shaffer, Chief
Nuclear Materials Inspection Branch

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

cc w/copy of licensee's letter dated 04/22/02:
Idaho Radiation Control Program Director

4 - 2003 - 012

EXHIBIT 6
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EXHIBIT 7

EXHIBIT 7

INTERVIEW REPORT
WITH
RICHARD E. BOOTH, III

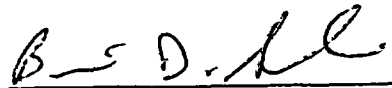
On April 9, 2003, Richard E. BOOTH, III, President, Booth and Associates, Pocatello, Idaho, was interviewed by Special Agent Brian D. Gonsoulin, Nuclear Regulatory Commission (NRC), Office of Investigations, Region IV (RIV), and Michael FULLER, Senior Health Physicist, Nuclear Materials Inspection Branch, Division of Nuclear Materials Safety, NRC:RIV. BOOTH was interviewed regarding an allegation that Billy BERRY, Manager/Radiation Safety Officer, All Tech Corporation (ATC), Pocatello, Idaho, an NRC licensee, failed to provide accurate and complete information to the NRC concerning ATC's possession of radioactive material. This report relates, in substance, information provided by BOOTH.

BOOTH stated his company, Booth and Associates, owned ATC and he [BOOTH] allowed BERRY to run ATC as the General Manager. BOOTH said BERRY was responsible for keeping records for ATC and following NRC regulations, and added he [BERRY] was responsible for the work generated by ATC. BOOTH said although he owned ATC, much of the operational management of ATC was conducted by BERRY. BOOTH said that in the summer of 2001 (he could not recall a specific date), he was approached by BERRY and told that he [BERRY] had a friend named Brett MCGOWEN [NFI] from the Las Vegas, Nevada, area that knew of several density gauges that an individual named Jay MACIA [NFI] was trying to sell. BOOTH said BERRY told him not all of the gauges were in operating condition, but that MACIA was willing to sell four or five gauges for the price of one to get rid of them from his inventory. BOOTH said BERRY told him that was a good deal, so he [BOOTH] authorized BERRY to buy the gauges from MACIA. BOOTH stated that other than providing the funds for the gauges, he had no contact with them, adding BERRY handled all of the details surrounding the purchase of the gauges. BOOTH stated he authorized three payments to MACIA for the gauges which totaled \$3,900.

BOOTH stated that in October 2002, he asked Donald W. BROWN, Manager, Quality Assurance, Booth and Associates, to conduct an audit of ATC to verify all of ATC's equipment was intact. BOOTH said he requested the audit because of problems ATC was having with former employees Lowell TRUJILLO, Paul DESFOSES, and Clayton MAHER. BOOTH stated he had suspected the three aforementioned former ATC employees of stealing non-radioactive materials from ATC, and using that equipment on non-ATC job sites. BOOTH stated that as a result of BROWN's audit, it was discovered that two of the density gauges ATC purchased from MACIA were missing from ATC's inventory. BOOTH said he asked BERRY why the missing density gauges were not discovered prior to the audit and he [BOOTH] said BERRY told him he [BERRY] did not open the gauge boxes to see if the gauges were inside, he [BERRY] only verified that the gauge boxes were chained together and appeared to be intact. BOOTH said the gauges missing from ATC's inventory were found in the Portneuf River, near

Pocatello, Idaho, on October 13, 2002. BOOTH stated he had no evidence of anyone stealing the two density gauges from ATC, but verified the density gauges were purchased in the summer of 2001 by BERRY for possible utilization by ATC.

This report was prepared on April 14, 2003, from agent's notes.

A handwritten signature in black ink, appearing to read "B. D. Gonsoulin", written over a horizontal line.

Brian D. Gonsoulin, Special Agent
Office of Investigations, Region IV

EXHIBIT 8

EXHIBIT 8