

August 17, 2005

EA-05-120

Scott A. Kvasnicka
Corporate Radiation Safety Officer
MISTRAS Holding Group
D/B/A: Conam Inspection and Engineer Services, Inc.
899 Carol Court
Carol Stream, IL 60188

Dear Mr. Kvasnicka:

This refers to information you provided to the U.S. Nuclear Regulatory Commission on May 18, 2005, that a locked radiography exposure device (camera) containing NRC-licensed material was left unattended and unsecured at a temporary job site in Philadelphia, Pennsylvania, on May 17, 2005. A special inspection was conducted from May 26 to June 9, 2005, at the temporary job site and at your facility in Trainer, Pennsylvania. One apparent violation of the NRC requirements, concerning control and storage of licensed materials, 10 CFR Part 20, Sections 1801 and 1802, was identified during the inspection.

In the June 24, 2005, letter transmitting the inspection report, we provided you the opportunity to address the apparent violations identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter dated June 27, 2005, you declined the opportunity to attend a predecisional enforcement conference and instead provided a written response.

Based on the information developed during the inspection and the information that you provided in your June 27, 2005, letter, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the inspection report. In summary, two Conam Inspection radiographers, after completing radiography activities on May 17, 2005, left a locked camera, containing NRC-licensed material, uncontrolled and unattended on scaffolding at the work site. Later that same day, a refinery employee observed the unattended and uncontrolled camera on the scaffolding and notified Conam Inspection. The camera was subsequently secured. The failure to secure or maintain surveillance over NRC-licensed material in any aggregate quantity greater than 1,000 times the quantity specified in Appendix C to 10 CFR Part 20 is a significant safety issue. Therefore, the violation is categorized in accordance with the NRC Enforcement Policy at Severity Level III. The current Enforcement Policy is included on the NRC's Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Enforcement Policy**.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$6,500 is considered for a Severity Level III violation. Because your facility has not been the subject of NRC enforcement actions within the last two years, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. The NRC determined that credit was warranted for

your corrective actions which included, but were not limited to: (1) retraining the radiographers involved; (2) informing other radiographers of the incident; and (3) developing a source accountability form for use at temporary job sites.

Therefore, to encourage prompt identification and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III violation constitutes escalated enforcement action, that may subject you to increased inspection effort.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 03035114/2005-001(DNMS) and your June 27, 2005, letter. Therefore, you are not required to respond to this letter unless the description in the inspection report or your response does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response, if you choose to respond, should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Significant Enforcement Actions**.

Please contact John Madera, Chief, Materials Inspection Branch at telephone number (630) 829-9834 if you have any questions.

Sincerely,

/RA/

James L. Caldwell
Regional Administrator

Docket No. 030-35114
License No. 12-16559-02

Enclosure: Notice of Violation

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NAME	Weil		Berson		Madera for Reynolds		Weil for Morell ¹	
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NAME	Weil for Nolan ¹		O'Brien		Caldwell			
DATE	08/15/05		08/17/05		08/17/05			

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¹Concurrence from HQ in 8/15/05 e-mail from S. Merchant, OE, to K. O'Brien, RIII

NOTICE OF VIOLATION

MISTRAS Holding Group
D/B/A: Conam Inspection and Engineer Services, Inc.
Carol Stream, Illinois

Docket No. 030-35114
License No. 12-16559-02
EA-05-120

During an NRC inspection conducted from May 26 to June 9, 2005, a violation of NRC requirements was identified. In accordance with the Enforcement Policy the violation is listed below:

10 CFR 20.1801 requires that the licensee secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas. 10 CFR 20.1802 requires that the licensee control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage. As defined in 10 CFR 20.1003, *controlled area* means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee for any reason; and *unrestricted area* means an area, access to which is neither limited nor controlled by the licensee.

Contrary to the above, on May 17, 2005, the licensee failed to secure from unauthorized removal or limit access to NRC-licensed material in a radiographic exposure device at a temporary job site in Philadelphia, Pennsylvania, an unrestricted area, nor did the licensee control and maintain constant surveillance of this licensed material. Specifically, the licensee left the locked radiographic exposure device on a scaffold at the temporary job site following the completion of daily work activities.

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

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in Inspection Report No. 03035114/2005-001(DNMS) and your June 27, 2005, letter. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-05-120" and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator and the Enforcement Officer, Region III, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Should you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. 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. 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 2.390(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.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 17th day of August 2005