

October 17, 2006

EA-06-220

Mr. David R. Myers  
[HOME ADDRESS DELETED  
UNDER 10 CFR 2.390]

SUBJECT: UNAUTHORIZED RECEIPT OF SPECIFIC LICENSED NUCLEAR GAUGE  
CONTAINING NRC LICENSED MATERIAL

Dear Mr. Myers:

This is a follow up to an August 30, 2006, telephone conversation between you and Mr. Darrel Wiedeman of my staff. Based on that telephone conversation, it is our understanding that approximately two years ago, at a public auction at Cargolargo in Independence, Missouri, you purchased and received a Humboldt HS-5001 EZ series moisture/density gauge containing NRC-licensed material. The gauge was sold on EBAY in August 2006, and shipped to the buyer who resides in Pensacola, Florida. It was also our understanding that the individual that purchased the nuclear gauge had a valid byproduct material license issued by the State of Florida.

During the August 30, 2006, telephone conversation, Mr. Wiedeman explained to you that a NRC license is required to possess and transfer this nuclear gauge. Mr. Wiedeman also explained to you that your possession of this gauge constitutes a violation of NRC requirements. At the conclusion of the conversation, you indicated that you understood our position and you did not realize that possession of the gauge required a NRC license.

We would like to inform you that the NRC's regulations allow the issuance of civil sanctions to be taken directly against individuals who possess or distribute these devices without a license. While we have elected not to take enforcement action against you at this time, please be aware that similar actions in the future could lead to formal NRC enforcement action against you.

Please feel free to contact Mr. Darrel Wiedeman of my staff if you have any questions. Mr. Wiedeman can be contacted at (800) 522-3025 or (630) 829-9808.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter with personal privacy information (e.g., your home address) redacted, will be 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 Room).

Sincerely,  
**/RA/**  
Steven A. Reynolds, Director  
Division of Nuclear Materials Safety

DISTRIBUTION w/encl:  
See next page

DOCUMENT NAME: E:\Filenet\ML062900285.wpd

Publicly Available     Non-Publicly Available     Sensitive     Non-Sensitive

To receive a copy of this document, indicate in the concurrence box "C" = Copy without attach/encl "E" = Copy with attach/encl "N" = No copy

OFFICE	RIII:DNMS	RIII:DNMS	RIII:EICS	RIII:DNMS
NAME	DGWiedeman:dh	KJLambert	KGO'Brien	SAReynolds
DATE	10/05/06	10/05/06	10/06/06	10/17/06

**OFFICIAL RECORD COPY**

Letter to David R. Myers from Steven A. Reynolds dated

SUBJECT: UNAUTHORIZED RECEIPT OF SPECIFIC LICENSED NUCLEAR GAUGE  
CONTAINING NRC LICENSED MATERIAL

DISTRIBUTION w/encl:

Docket File

A. Kirkwood, NMSS

G. Grant, ORA

G. Shear, EICS