



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005

June 5, 2007

EA-06-300

Ernest K. Hirata, President
Hirata & Associates, Inc.
99-1433 Koaha Place
Aiea, Hawaii 96701

SUBJECT: NOTICE OF VIOLATION (NRC INSPECTION REPORT NO. 030-32056/06-001)

Dear Mr. Hirata:

This refers to an Nuclear Regulatory Commission (NRC) inspection conducted on August 29, 2006, at your facility in Aiea, Hawaii, and at a temporary job site in Kapolei, Hawaii. In addition, follow-up inspection activities were performed on September 1, 2006. The inspection examined activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations and with the conditions in your license. The preliminary inspection findings were discussed with Messrs. David Kitamura, Dean Morita, and you at the conclusion of the onsite inspection. A final exit meeting was conducted telephonically with you and Messrs. Morimoto, Kitamura, and Morita on March 15, 2007, and the inspection results were documented in NRC Inspection Report No. 030-32056/06-001 dated March 16, 2007.

On April 25, 2007, a predecisional enforcement conference was conducted telephonically with you and members of your staff to discuss the apparent violation, its significance, its root cause, and your corrective actions.

Based on the information developed during the inspection and the information that you provided during the conference, the NRC has determined that a violation of NRC requirements occurred. This violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the subject inspection report. The violation involved two examples of a failure to use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal when the portable gauges were not under the control and constant surveillance of the licensee as required by 10 CFR 30.34(i). Specifically, (1) a portable gauge at a temporary job site was not under constant control and surveillance and was found to have no tangible barriers in place, and (2) portable gauges stored at your facility in Aiea, Hawaii, were not under constant control and surveillance and were found to have only one tangible barrier in place.

Although there was no actual safety consequences resulting from this violation, the failure to maintain adequate security of portable gauges increases the likelihood that these gauges could become lost or stolen and represents an unacceptable risk to public health and safety. Therefore, in accordance with the NRC's Enforcement Policy, this violation has been categorized at Severity Level III and a base civil penalty in the amount of \$3,250 would be considered for a

Severity Level III violation. The current Enforcement Policy can be viewed from the NRC Web site at www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html.

Because your facility has not been the subject of escalated enforcement actions within the last 2 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. Recognizing that you promptly corrected this violation by (1) securing the gauges with chains inside the locked storage cabinets; (2) implementing gauge security training and reminders in your ongoing refresher training and monthly meetings; and (3) implementing increased management oversight and field audits, the NRC has concluded that credit is warranted for *Corrective Action*.

Therefore, to encourage prompt 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.

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 addition, we hereby acknowledge receipt of your letter dated April 9, 2007, in response to our letter and Notice of Violation dated March 16, 2007, which identified 10 Severity Level IV violations. As noted in the subject inspection report and discussed during the April 25, 2007, conference, NRC was concerned that the number and type of findings identified during the inspection indicated a lack of management oversight of your radiation safety program. During the conference, you and your staff addressed this concern by elaborating on the increased emphasis your radiation safety and security program would receive at all levels of your organization. Additionally, your radiation safety officer acknowledged that he remained ultimately responsible for the overall implementation of your program and noted that audits of your program would be reviewed by upper management so that findings and corrective actions would receive the attention commensurate with their safety and security significance. In this light, we have reviewed your April 9, 2007, reply to the March 16, 2007, Notice of Violation and found it responsive to the concerns raised. We will review the implementation of your corrective actions during future inspections to determine that full compliance has been achieved and will be maintained.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

Should you have any questions concerning this inspection or the enclosed Notice, please contact Mr. Mark Haire at (817) 860-8117.

Sincerely,

/RA/

Bruce S. Mallett
Regional Administrator

Docket No.: 030-32056
License No.: 53-29025-01

Enclosures:

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

cc w/Enclosure 1:
Hawaii Radiation Control Program Director

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SUNSI Review Completed: MSH ADAMS: XX Yes No Initials: MSH
XX Publicly Available Non-Publicly Available Sensitive XX Non-Sensitive

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MSHaire	JFKatanic	VHCampbell	LDWert	KSFuller
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RA/DRA	OE	FSME	DRA	RA
	DLSolorio	MLBurgess	TPGwynn	BSMallett
	/RA GMV via E/	/RA GMV via E/	/RA BSMallet for/	/RA/
	06/04/07	05/22/07	05/11/07	05/11 & 06/06/07

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T=Telephone

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NOTICE OF VIOLATION

Hirata & Associates, Inc.
Aiea, Hawaii

Docket No. 030-32056
License No. 53-29025-01
EA-06-300

During an NRC inspection conducted on August 29, 2006, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 30.34(i) requires, in part, that each licensee use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

Contrary to the above, the licensee did not use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal whenever portable gauges are not under the control and constant surveillance of the licensee. Specifically, two examples of this violation were identified on August 29, 2006: (1) at a temporary job site in Kapolei, Hawaii, the licensee stored a portable nuclear gauge in an unlocked transportation box in the bed of a pickup truck that was not under the control and constant surveillance of the licensee - the gauge had no physical controls that formed a tangible barrier; and (2) the licensee's gauge storage cabinet at its office in Aiea, Hawaii, was being used to store two portable gauges that were not under the control and constant surveillance of the licensee - the gauge storage cabinet had only one physical control that formed a tangible barrier (a single hasp-type lock on the cabinet door).

This is a Severity Level III violation (EGM-06-001)

Pursuant to the provisions of 10 CFR 2.201, Hirata, & Associates, Inc., 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; EA-06-300" 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.

Enclosure 1

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.

Because any 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 2.390(b) to support a request for withholding confidential commercial or financial information).

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

Dated this 5th day of June 2007.