

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

July 10, 2007
EN-07-042

OFFICE OF ENFORCEMENT
NOTIFICATION OF SIGNIFICANT ENFORCEMENT ACTION

Licensee: C & W Enterprises, Inc. (EA-07-022)
P.O. Box 84826
Sioux Falls, SD 57118

Subject: PROPOSED IMPOSITION OF CIVIL PENALTY - \$3,250

This is to inform the Commission that a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$3,250 will be issued on or about July 13, 2007, to C & W Enterprises, Inc. This action is based on a Severity Level III violation of 10 CFR 30.34(l) involving the failure to maintain a minimum of two independent physical controls that formed tangible barriers to secure a portable gauge from unauthorized removal during a period when the portable gauge was not under the control and constant surveillance of the licensee. Specifically, from September 2006 until November 27, 2006, no tangible barrier was used to secure a portable gauge that was stored in a warehouse and during a follow up inspection on April 24, 2007, only one physical control that formed a tangible barrier was used to secure the portable gauge from unauthorized removal.

Because this was the first escalated enforcement action within two inspections, 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. In this case, the NRC has determined that no Corrective Action credit is warranted because the corrective actions were not adequate to restore compliance. Since credit was not warranted for Corrective Action, application of the civil penalty assessment process would result in a civil penalty of a base amount. Therefore, the NRC is proposing imposition of a base civil penalty of \$3,250.

It should be noted that the licensee has not been specifically informed of the enforcement action. The schedule of issuance and notification is:

Mailing of Notice	July 13, 2007
Telephone Notification of Licensee	July 13, 2007

The South Dakota Radiation Control program will be notified.

The licensee has thirty days from the date of the Notice in which to respond. Following NRC evaluation of the response, the civil penalty may be remitted, mitigated, or imposed by Order.

CONTACTS: Leelavathi Sreenivas, OE, 415-1285 David Solorio, OE, 415-0149

Electronic Distribution: EN-07-042, July 10, 2007

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ADAMS ACCESSION No.: ML071910301

OFFICE	OE:ES		OE:BC	
NAME	LSreenivas		DSolorio MSchwartz for	
DATE	07/10/07		07/10/07	

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