



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, PORTLAND DISTRICT
U S MOORINGS
8010 NW ST HELENS ROAD
PORTLAND OR 97210-3699

July 10, 2007

30-19774

Operations Division

Attn: Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: REPLY TO A NOTICE OF VIOLATION; EA-07-153

This letter is in response to the inspection conducted on April 3, 2007, at our facility in Portland, Oregon, and the corresponding Notice of Violation (NOV) which resulted. In response, U.S. Moorings management conducted an investigation to determine the root cause and any other underlying factors which contributed to the NOV. Interim and long term corrective actions were then established to prevent future noncompliance.

During the 2004 license renewal, the U.S. Moorings amended some of the language used in its radioactive materials license. One of the amendments was to license Condition 17. Our radiation safety officer (RSO) at the time added language which was taken directly from NUREG-1556 Vol. 4, Appendix N, which defined non-routine maintenance but inadvertently failed to request permission to perform the maintenance. This was due to a misinterpretation of the definition of non-routine maintenance. Prior to the 2004 renewal, our materials license authorized U.S. Moorings personnel to perform gauge installation, storage, and removal activities. In 2005 the U.S. Moorings current RSO took over the radiation safety program. He too misinterpreted the definition of non-routine maintenance and allowed qualified maintenance workers to continue to install, remove, and store the density gauges. At no time were workers exposed to radiation. All non-routine maintenance was conducted by personnel who were specifically trained in the removal, storage, and installation of the density gauges. Radiation surveys, leak tests, and inventories were conducted to ensure the safety of all personnel. The following corrective actions have been taken to guarantee future compliance with license Condition 17.

In the interim we have halted all Army Corps of Engineers conducted non-routine maintenance, starting April 4, 2007 ensuring full compliance with license Condition 17. Thermo Fisher Scientific a company specifically licensed by the NRC to perform non-routine maintenance on our gauges has been contracted to perform all removal, storage, and installation activities.

The long term solution is to amend our license to allow U.S. Moorings personnel to perform non-routine maintenance. This will include the removal, storage, and installation of our gauges.

IE07

FSME

At present we are reviewing our radiation safety program to ensure compliance with our materials license and applicable regulations. Following the review we will submit in writing an amendment request and supporting documentation to the NRC Region IV, Division of Nuclear Materials Safety Nuclear Licensing Branch, seeking approval to conduct specific non-routine maintenance.

If you have any questions or concerns regarding our response or require addition information please contact Joshua Patton my RSO at (503) 808-5406.

A handwritten signature in black ink, appearing to read "Mac E. Robison", with a long horizontal flourish extending to the right.

MAC E. ROBISON, P.E.
Chief, Plant Maintenance Section

Cc:
Attn: Regional Administrator
Region IV, U.S. Nuclear Regulatory Commission
611 Ryan Plaza Drive, Suite 400
Arlington, Texas 76011



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

June 22, 2007

EA-07-153

Mr. Mac E. Robison
Chief, Plant Maintenance Section
Department of the Army
Portland District, Corps of Engineers
8010 NW Saint Helens Road
Portland, Oregon 97210

SUBJECT: NRC INSPECTION REPORT 030-19774/07-001 AND NOTICE OF VIOLATION

Dear Mr. Robison:

This refers to the inspection conducted on April 3, 2007, at your facility in Portland, Oregon, and aboard the Dredge Essayons, and the continued in office review through June 18, 2007. 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. Within these areas, the inspection consisted of a selected examination of procedures and representative records, observation of activities, independent measurements, and interviews with personnel. The preliminary inspection findings were discussed with Mr. Joshua Patton and you at the conclusion of the onsite inspection. A final exit meeting was conducted telephonically with Mr. Joshua Patton on June 18, 2007.

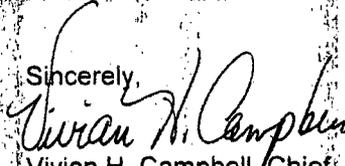
Based on the results of this inspection, the NRC has determined that a Severity Level IV violation of NRC requirements occurred. The violation was evaluated in accordance with the NRC Enforcement Policy included on the NRC's Web site at www.nrc.gov/about-nrc/regulatory/enforcement.html

The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in the subject Notice. The violation is being cited in the Notice because it was identified by the NRC, rather than being 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 2.390 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 document system (ADAMS), accessible from the NRC Web site at 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.

Sincerely,



Vivian H. Campbell, Chief
Nuclear Materials Inspection Branch

Docket No.: 030-19774
License No.: 36-14803-02

Enclosures:

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

cc w/Enclosures:

Mr. Joshua Patton
Radiation Safety Officer
Department of the Army
Portland District, Corps of Engineers
8010 NW Saint Helens Road
Portland, Oregon 97210

Oregon Radiation Control Program Director

ENCLOSURE 1

NOTICE OF VIOLATION

Department of the Army
Portland District, Corps of Engineers
Portland, Oregon

Docket No. 030-19774
License No. 36-14803-02
EA-07-153

During an NRC inspection conducted on April 3, 2007, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

License Condition 17 of NRC Byproduct Materials License 36-14803-02 requires, in part, that the following services shall not be performed by the licensee: installation, initial radiation surveys, relocation, removal from service, dismantling, alignment, replacement, disposal of the sealed source and non-routine maintenance or repair of components related to the radiological safety of the gauge (i.e. the sealed source, the source holder, source drive mechanism, on-off mechanism (shutter), shutter control, shielding). Furthermore, License Condition 17 of NRC Byproduct Materials License 36-14803-02 requires that these services shall be performed only by persons specifically licensed by the U.S. Nuclear Regulatory Commission or an Agreement State to perform such services.

Contrary to the above, on several occasions during December 9, 2002-April 3, 2007, the licensee installed, relocated, and removed nuclear gauges from service. These services were performed by licensee personnel and not by persons specifically licensed by the U.S. Nuclear Regulatory Commission or an Agreement State to perform such services. Specifically, (1) during the time period of July 28-November 3, 2004, licensee personnel permanently removed from service two gauges that had been installed aboard the Dredge Yaquina, (2) on or about December 4, 2006, licensee personnel aboard the Dredge Essayons removed two gauges from service and placed them into storage, (3) on or about January 18, 2007, licensee personnel installed two gauges aboard the Dredge Essayons, and (4) on or about March 6, 2007, licensee personnel aboard the Dredge Essayons removed two gauges from service and placed them into storage.

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

Pursuant to the provisions of 10 CFR 2.201, the Department of the Army, Portland District, Corps of Engineers, is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region IV, US Nuclear Regulatory Commission, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas, 76011, 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-07-153" and should include: (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.

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 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 are required to post this Notice within two working days.

Dated this 22nd day of June 2007.