

January 9, 2008

EA-07-317

The Reverend Lawrence Biondi, S.J.  
Saint Louis University  
1402 South Grand Blvd.  
St. Louis, MO 63104

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 030-11789/2007-002(DNMS) AND  
NOTICE OF VIOLATION – SAINT LOUIS UNIVERSITY

Dear Father Biondi:

This refers to a routine health and safety inspection conducted November 28 and 29, 2007, at the Saint Louis University facilities; Saint Louis, Missouri with continuing NRC in-office review through December 11, 2007. The in-office included the receipt and review of additional information on the circumstances surrounding the failure to secure licensed material. The purpose of the inspection was to determine whether activities under your license were conducted safely and in accordance with NRC requirements. The preliminary findings of the inspection were discussed with Paul Loewenstein, Mark Haenchen and other members of your staff at the conclusion of the on-site inspection. An exit meeting was held with Mark Haenchen of your staff to discuss the inspection findings via telephone on December 11, 2007.

The inspection consisted of an examination of activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations and with the conditions of your license. Within these areas, the inspection consisted of a selected examination of procedures and representative records, observations of activities, and interviews with personnel.

Based on the results of this inspection, an apparent violation of 10 CFR 20.1801, "Security of Stored Material," was identified which is being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The apparent violation involves your staff's failure to secure from unauthorized removal or limit access to licensed radioactive materials. Specifically, on November 28, 2007, doors to laboratories were left open and the rooms were unattended, resulting in licensed radioactive material being accessible to unauthorized individuals. The circumstances surrounding the apparent violation, the significance of the issue, and the need for lasting and effective corrective action were discussed with members of your staff at the on-site preliminary exit meeting held on November 29, 2007, and telephonic exit meeting on December 11, 2007. As a result, it may not be necessary to conduct a predecisional enforcement conference in order to enable the NRC to make an enforcement decision.

Enclosure 2 Contains Sensitive Unclassified Non-Safeguards Information. Upon Separation This letter and Enclosure 1 are Decontrolled.
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In addition, since your facility has not been the subject of escalated enforcement actions within the last two inspections, and based on our understanding of your corrective actions, a civil penalty may not be warranted in accordance with Section VI.C.2 of the Enforcement Policy. The final decision will be based on your confirming on the license docket that the corrective actions previously described to the inspector have been or are being taken.

Before the NRC makes its enforcement decision, we are providing you an opportunity to either: (1) respond to the apparent violation addressed in the enclosed inspection report within 30 days of the date of this letter or (2) request a predecisional enforcement conference. If a conference is held, it will be closed for public observation. The NRC will also issue a press release to announce the conference. Please contact John Madera at (630) 829-9834 within 7 days of the date of this letter to notify the NRC of your intended response.

If you choose to provide a written response to the apparent security violation, it should be clearly marked as a "Response to an Apparent Violation in Inspection Report No. 030-11789/2007-002(DNMS); EA-07-317" and should include for the apparent violation: (1) the reason for the apparent violation, or if contested, the basis for disputing the apparent violation; (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. In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violation. The guidance in the enclosed excerpt from NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a predecisional enforcement conference.

In addition, please be advised that the number and characterization of the apparent security violation described in the enclosed inspection report may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

Because the apparent security violation involves security-related information, your response, if you provide one, will not be made available electronically for public inspection in the NRC Public Document Room or in ADAMS. Please mark the top of each page of your entire response "Security-Related Information – Withhold Under 10 CFR 2.390."

Additionally, the NRC determined that a Severity Level IV violation of NRC requirements occurred regarding the storage of food or drink with radioactive material. 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/enforce-pol.html](http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html).

The 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 is being cited in the Notice because it was identified by the inspector. The NRC has concluded that

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information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, is already adequately addressed on the docket in the enclosed inspection report. Therefore, you are not required to respond to this violation unless the description in our report does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, you should follow the instructions in the enclosed Notice.

The enclosed inspection report is exempt from public disclosure in accordance with 10 CFR 2.390 because disclosure to unauthorized individuals could present a security vulnerability. Therefore, the inspection report will not 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>.

Sincerely,

*/RA by K. O'Brien Acting for/*

Steven A. Reynolds, Director  
Division of Nuclear Materials Safety

Docket No. 030-11789  
License No. 24-00196-07

Enclosures:

1. Notice of Violation
2. Inspection Report No. 030-11789/2007-002(DNMS)(non-public)
3. Excerpt from NRC Information Notice 96-28

cc w/encls: Mark Haenchen, Radiation Safety Officer  
State of Missouri

DISTRIBUTION:

See next page

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Letter to Lawrence Biondi, S.J. from Steven A. Reynolds dated January 9, 2008

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 030-11789/2007-002(DNMS) AND  
NOTICE OF VIOLATION – SAINT LOUIS UNIVERSITY

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NOTICE OF VIOLATION

Saint Louis University  
St. Louis, Missouri

Docket No. 030-11789  
License No. 24-00196-07

During an NRC inspection conducted on November 28 and 29, 2007, with continuing NRC in-office review through December 11, 2007, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Condition 23 of Amendment 34 of NRC License Number 24-00196-07 requires, in part, that the licensee conduct its program in accordance with statements, representations, and procedures contained in an application dated December 20, 2002.

RES 10.6 Titled "Safe Use of Radionuclides and Emergency Procedures" of application dated December 20, 2002, states that the licensee will adopt the procedures for the safe use of radionuclides and emergencies as published in Appendix R of NUREG-1556, Volume 11, "Program-Specific Guidance About Licenses of Broad Scope" (April 1999).

In accordance with Appendix R of NUREG-1556, Volume 11, the licensee developed procedures for laboratories or areas where radioactive material is used or stored. Specifically, the licensee developed procedures that forbid the presence of food or drink in areas where licensed material is stored or used.

Section III.A.1 of Saint Louis University Radiation Safety Bulletin # 6, a licensee procedure, dated November 27, 1992, states that no food or drink is permitted in any laboratory designated as a restricted area. Section I of the Bulletin defines a restricted area as any area where radioactive materials are used or stored.

Contrary to the above, on November 28, 2007, the licensee stored food or food and drink in rooms where radioactive material was stored.

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

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to be taken to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in NRC Inspection Report 030-11789/2007-002(DNMS). 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, if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 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.

Dated this 9<sup>th</sup> day of January 2008

Upon separation from Enclosure 2 this NOV is decontrolled.