



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

January 10, 2008

Docket No. 03022089
EA-07-262

License No. 44-19115-02

Martin Hain
President
Knight Consulting Engineers, Inc.
P.O. Box 29
51 Knight Lane
Williston, VT 05495

SUBJECT: INSPECTION 03022089/2007001, KNIGHT CONSULTING ENGINEERS, INC., WILLISTON, VERMONT SITE AND THE TEMPORARY JOB SITE, WILLISTON, VERMONT, EXERCISE OF ENFORCEMENT DISCRETION AND NOTICE OF VIOLATION

Dear Mr. Hain:

On August 23, 2007, Michael Reichard of this office conducted a safety inspection at the above address and the temporary job site located in Williston, Vermont of activities authorized by the above listed NRC license. The inspection was an examination of your licensed activities as they relate to radiation safety and to compliance with the Commission's regulations and the license conditions. The inspection consisted of observations by the inspector, interviews with personnel, and a selected examination of representative records. The findings of the inspection were discussed with Mr. Robert Lovgren of your organization at the conclusion of the inspection on January 3, 2008.

Based on the results of this inspection, it appears that your activities were not conducted in full compliance with NRC requirements. A violation of 10 CFR 30.34(i) was identified because only one of the two required physical controls to prevent unauthorized removal of a portable nuclear gauge was in place, as described in the attached Notice of Violation (Notice). Although such violations are normally categorized at Severity Level III and considered for escalated enforcement action, we are exercising enforcement discretion to categorize this violation at Severity Level IV because: (1) one physical control existed to prevent loss or theft of the portable gauge; (2) you retained possession of the gauge; (3) you took appropriate action to correct the violation and prevent recurrence of similar violations in the future; and (4) the violation was not willful. However, any future violations of 10 CFR 30.34(i) could be categorized at Severity Level III and evaluated for a civil penalty in accordance with Section VI.C. of the Enforcement Policy.

The enclosed Notice categorizes the violation by severity level. You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence of the violation identified by the inspector. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. Your corrective actions are

subject to review in future inspections, where further NRC enforcement action could result to ensure compliance with NRC regulatory requirements.

For further information, current NRC regulations are included on the NRC's website at www.nrc.gov ; select **Nuclear Materials; Medical, Academic, and Industrial Uses of Nuclear Material**; then **Regulations, Guidance, and Communications**. The current Enforcement Policy is also available at www.nrc.gov ; select **Site Map**, then scroll down to **Enforcement Policy**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 7:00 a.m. to 8:00 p.m. EST, Monday through Friday (except Federal holidays).

Please contact Michael Reichard, Health Physicist, Material Security and Industrial Branch at 610-337-6945 if you have any questions regarding this matter.

Sincerely,

Original signed by Brian Holian

Brian Holian, Director
Division of Nuclear Materials Safety

Enclosure:
Notice of Violation

cc:
Robert A. Lovgren, P.E., Radiation Safety Officer
State of Vermont

subject to review in future inspections, where further NRC enforcement action could result to ensure compliance with NRC regulatory requirements.

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Please contact Michael Reichard, Health Physicist, Material Security and Industrial Branch at 610-337-6945 if you have any questions regarding this matter.

Sincerely,

Original signed by Brian Holian

Brian Holian, Director
Division of Nuclear Materials Safety

Enclosure:
Notice of Violation

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NOTICE OF VIOLATION

Knight Consulting Engineers, Inc.
Williston, VT

Docket No. 03022089
License No. 44-19115-02

During an NRC inspection conducted on August 23, 2007, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

- A. 10 CFR 30.34(i) requires that each portable gauge 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, on August 23, 2007, the licensee failed to use a minimum of two independent physical controls that form tangible barriers to secure a portable moisture/density gauge possessed by the licensee from unauthorized removal when the gauge was not under the control and constant surveillance of the licensee. Specifically, at the storage location, the portable gauges were secured with a single lock in a closet in the licensee's lower level workshop. An exterior door leading to the workshop was propped open and no employees were in the workshop at that time. Additionally, at the temporary job site, the gauge was locked in the transportation case with a single lock. The transportation case was secured to the bed of a truck with a single lock and chain. The gauge user was not accompanying the gauge when the inspector arrived at the temporary job site.

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

Pursuant to the provisions of 10 CFR 2.201, Knight Consulting Engineers, Inc. is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555, with a copy to the Regional Administrator, Region I, 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" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the 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. 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 to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, any response which contests an enforcement action shall be submitted under oath or affirmation.

Notice of Violation
Knight Consulting Engineers, Inc.

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Your response will be placed in the NRC Public Document Room (PDR) and on the NRC Web site. To the extent possible, it should, therefore, not include any personal privacy, proprietary, or safeguards information so that it can be made publically available without redaction. However, if you find it necessary to include such information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.

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

Dated This 10th day of January 2008