

March 31, 2008

EA-07-317

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

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

Dear Father Biondi:

This refers to the inspection conducted on November 28 and 29, 2007, at your St. Louis, Missouri facility, with continued in-office review through December 11, 2007. The purpose of the inspection was to examine routine activities at your facility. During the inspection, an apparent violation of NRC requirements was identified by the inspector. Details regarding the apparent violation were provided in NRC Routine Inspection Report No. 030-11789/2007-002(DNMS), dated January 9, 2008.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter dated February 6, 2008, you provided a response to the apparent violation. In your response, you noted some corrections to our inspection report as follows: (1) instead of addressing a security issue, the previous violation in 2003 addressed a failure to properly designate an area as a non-radioactive area within a research laboratory where food or drinks could be used; and (2) the radionuclide was incorrectly specified as iodine-131 instead of iodine-125. The NRC acknowledges these corrections and determined that this does not change the overall conclusion that your staff failed to secure from unauthorized removal or to limit access to licensed radioactive materials.

Based on the information developed during the inspection and the information that you provided in your response to the inspection report dated February 6, 2008, the NRC has determined that a violation of NRC requirements occurred. 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 dated January 9, 2008. 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 root cause of the violation was an apparent lapse on the part of the laboratory staff to ensure that the doors were locked or the radioactive materials were secured under lock and key within the laboratory when the staff left the areas.

The NRC considers this violation to be significant as it resulted in the potential for theft or diversion of radioactive material that could have adversely impacted the health and safety of the general public. Therefore, the violation has been categorized in accordance with the NRC Enforcement Policy as a Severity Level III violation.

Because your facility has not been the subject of escalated enforcement actions within the last 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. The NRC determined that credit was warranted for your corrective actions which included: (1) immediate notification and discussion with the permit holders and their staffs; (2) specialized refresher training on securing radioactive materials against unauthorized access or removal; (3) staff training sessions on security for the new research building; (4) an electronic mail bulletin providing information on possible options for securing radioactive material within the new research building; and (5) implementing a new "enforcement policy" that included immediate suspension of a user's radioactive materials permit, mandatory retraining and an increased inspection frequency should a repeat violation occur.

Therefore, to encourage prompt identification 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, which may subject you to increased inspection effort.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in Inspection Report 030-11789/2007-002(DNMS), dated January 9, 2008, and in your response dated February 6, 2008. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if you choose to make one, 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](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. If personal privacy or proprietary information is necessary to provide an acceptable response, 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 information, 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

L. Biondi

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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.) The NRC also includes significant enforcement actions on its Web site at [www.nrc.gov/about-nrc/regulatory/enforcement.html](http://www.nrc.gov/about-nrc/regulatory/enforcement.html).

Should you have any questions, please contact Mr. John Madera, Chief, Materials Inspection Branch, at (630) 829-9834.

Sincerely,

***/RA by Mark A. Satorius Acting for/***

James L. Caldwell  
Regional Administrator

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

Enclosure:  
Notice of Violation

cc w/encl: State of Missouri

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cc w/encl: State of Missouri

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DATE	03/25/08		03/25/08		03/26/08		03/17/08		03/27/08		03/28/08	

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1 OE concurrence received via E-mail from L. Sreenivas on March 17, 2008.

Letter to L. Biondi from James Caldwell dated March 31, 2008

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

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## NOTICE OF VIOLATION

Saint Louis University  
St. Louis, Missouri

Docket No. 030-11789  
License No. 24-00196-07  
EA-07-317

During an NRC inspection conducted on November 28 and 29, 2007, with continued 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:

10 CFR 20.1801 requires that the licensee secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas.

Contrary to the above, on November 28, 2007, the licensee did not secure from unauthorized removal or limit access to:

1. 15 to 18 millicuries of iodine-125 located in a room in the Medical School Building, which was a controlled area; and
2. 33 millicuries of hydrogen-3 located in rooms in the Pediatric Research Institute which were controlled areas.

This is a Severity Level III 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 Inspection Report No. 030-11789/2007-002(DNMS) and in a letter from the licensee dated February 6, 2008. 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, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-07-317," 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, 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.

If you choose to respond, 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>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

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

Dated this 31<sup>st</sup> day of March 2008