UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
612 EAST LAMAR BLVD, SUITE 400
ARLINGTON, TEXAS 76011-4005

July 7, 2008

Mr. Robert F. Wilkinson
President & CEO
Maui Paving, LLC
P.O. Box 78
Honolulu, Hawaii 96810

SUBJECT: NRC INSPECTION REPORT 030-33548/08-001 AND NOTICE OF VIOLATION

Dear Mr. Wilkinson:

This refers to the inspection conducted on March 6, 2008, at Maui Paving's facility at Ameron Quarry, Camp 10, in Puunene, Hawaii, with continued in-house review through June 3, 2008. The inspection was 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 the license. Within these areas, the inspection consisted of selected examination of procedures and representative records and interviews with personnel. Preliminary inspection findings were discussed with Mr. Clayton Castillo, Radiation Safety Officer, at the conclusion of the onsite portion of the inspection. A final exit briefing was conducted with members of your staff telephonically on June 13, 2008.

Based on the results of this inspection, the NRC has determined that five Severity Level IV violations of NRC requirements occurred. These violations were 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. The violations are cited in the enclosed Notice of Violation (Notice) and the circumstances that surround them are described in detail. The violations involved: 1) the failure to perform physical inventories of licensed material at the required intervals; and, 2) the failure to perform leak tests on radioactive sources at the required intervals; and, 3) the transfer of a portable nuclear gauge to a licensee not authorized to possess the gauge; and, 4) the possession of a radioactive isotope not listed on your license; and, 5) the failure to perform audits of the radiation protection program annually. The violations are being cited in the Notice because they were identified by the NRC during the inspection.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In addition, you should describe the steps you have taken, or will take to address our concerns about your management's attention to your radiation safety program and your Radiation Safety Officers's apparent lack of understanding of NRC requirements. 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, Enclosure 1, 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 Web site at 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.

Should you have any questions concerning this inspection, please contact Mr. James L. Thompson at (817) 276-6538 or the undersigned at (817) 860-8287.

Sincerely,

/RA Anthony D. Gaines for/

Vivian H. Campbell, Chief
Nuclear Materials Safety Branch A

Docket No.: 030-33548
License No.: 53-29069-01

Enclosures:
1. Notice of Violation
2. Information Notice 96-28

cc w/Enclosure 1:
Hawaii Radiation Control Program Director

cc w/Enclosure 1
ECollins
AHowell
CLCain
VHCampbell
JEWhitten
JLThompson
RITS Coordinator
NMSB-A
RIV Materials Docket File (5th Floor)

SUNSI review completed: JLT

ADAMS: X Yes Initials: JLT

X Publicly Available X Non Sensitive

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RIV:DNMS:NMSB-A	C:NMSB-A
JLThompson	VHCampbell
/RA/	***/RA ADG for/***
6/13/08	7/07/08

OFFICIAL RECORD COPY T=Telephone E=E-mail F=Fax

NOTICE OF VIOLATION

Maui Paving, LLC
Puunene, Hawaii

Docket No. 030-33548
License No. 53-29069-01

During a NRC inspection conducted on March 6, 2008, five violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

A. Condition 15 of License No. 53-29069-01 requires, in part, that the licensee shall conduct a physical inventory every six months to account for all sources and devices received and possessed under the license.

Contrary to the above, the licensee failed to conduct a physical inventory every six months to account for all sources and devices received and possessed under the license. Specifically, physical inventories were not performed during Calendar Year 2007.

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

B. Condition 13(A) of License No. 53-29069-01 requires, in part, that sealed sources shall be tested for leakage and/or contamination at intervals not to exceed the intervals specified in the certificate of registration issued by U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or by an Agreement State.

Contrary to the above, sealed sources were not tested for leakage and/or contamination at intervals specified in the certificate of registration issued by U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or by an Agreement State. Specifically, the licensee failed to perform leak tests on sealed sources housed in a Troxler Model 3440, Serial Number 17573, from August 9, 2006, until the date of inspection on March 6, 2008, and the leak test interval for this gauge is every 12 months. This gauge was routinely being used on a highway construction project in Kehei, Hawaii during this time interval.

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

C. Condition 6 of License No. 53-29069-01 requires, in part, that the licensee limit possession of byproduct material to the types and quantities listed on the License.

Contrary to the above, the licensee failed to limit possession of byproduct material to the types and quantities listed on the License. Specifically, the License authorizes the possession of only cesium-137 and americium-241. However, the licensee is currently in possession of a sealed source of californium-252 (serial number 74-364).

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

D. 10 CFR 30.41(c) requires, in part, that before transferring byproduct material to a specific licensee of the Commission, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form, and quantity of byproduct material to be transferred.

Contrary to the above, before transferring byproduct material to a specific licensee of the Commission, the licensee transferring the material failed to verify that the transferee's license authorizes the receipt of the type, form, and quantity of byproduct material to be transferred. Specifically, on March 24, 2008, the licensee transferred a Campbell Pacific Nuclear portable nuclear gauge (Serial Number M390605145) containing sealed sources of cesium-137 and americium-241(Model CPN-131), and these models are not authorized under the transferee's license.

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

E. 10 CFR 20.1101(c) requires, in part, that the licensee shall periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, the licensee failed to periodically review its radiation protection program content, and implementation at least annually. Specifically, annual reviews of the licensee's radiation protection program were not conducted in Calendar Years 2006 and 2007.

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

Pursuant to the provisions of 10 CFR 2.201, Maui Paving, LLC is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region IV, 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 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.

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 7th day of May 2008