



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION IV  
612 EAST LAMAR BLVD, SUITE 400  
ARLINGTON, TEXAS 76011-4125

September 10, 2008

IA-08-010

Scot A. Menzies

**[HOME ADDRESS DELETED  
UNDER 10 CFR 2.390(a)]**

SUBJECT: NOTICE OF VIOLATION, NRC INSPECTION REPORT NO. 030-37441/07-001  
AND NRC INVESTIGATION REPORT NO. 4-2008-010

Dear Mr. Menzies:

This refers to the investigation completed on February 21, 2008, by the Nuclear Regulatory Commission's (NRC) Office of Investigations (OI), regarding your activities, as the former Radiation Safety Officer, at R&M Engineering-Ketchikan, Inc., (R&M-Ketchikan). The purpose of the investigation was to determine whether you engaged in deliberate (willful) misconduct by failing to adhere to security requirements associated with the storage of portable gauges. The inspection report and a factual summary of the OI report, as it pertains to your actions, were transmitted to you by letter dated July 9, 2008.

In the letter transmitting the inspection report and factual summary, we provided you the opportunity to address the apparent violation identified in the report by either attending a predecisional enforcement conference, providing a written response, or requesting alternative dispute resolution (ADR) before we made our final enforcement decision. In lieu of these options, you contacted Ms. Christi Maier, Enforcement Specialist, telephonically on July 28, 2008, to discuss this matter. During the July 28 telephone call, you declined ADR and indicated that you did not believe that a predecisional enforcement conference or written response was needed, as all the information on the case has been presented during the inspection, exit briefings and the investigation interviews.

Based on the information developed during the inspection, exit briefings and investigation, the NRC has determined that you engaged in deliberate misconduct, in violation of 10 CFR 30.10. The violation is cited in the enclosed Notice of Violation (Notice) (Enclosure 1). The violation involves your deliberate failure to adhere to NRC security requirements when you did not provide a second independent physical control to form a tangible barrier to secure portable gauges from unauthorized removal when not under your control and constant surveillance. Specifically, R&M-Ketchikan's storage vault was constructed with an outer door and an inner door such that when both doors were locked, the inner door could provide the second independent physical control, and therefore, a tangible barrier for gauge security. During the September 20, 2007, inspection, the inspector found the outer door of the vault locked, but the inner door not locked and portable gauges were being stored inside the vault. At that time, you indicated that you understood that the second door required a lock and had purchased the lock, but you just had not had the time to put it in use. Your plan was to lock the hasp after the inner

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RETURN RECEIPT REQUESTED

door was constructed, but competing priorities had caused you to fail to secure the inner door with the second lock. Consequently, you failed to have in place the two independent physical controls to form tangible barriers to secure portable gauges from unauthorized removal when not under your control and constant surveillance, as required by 10 CFR 30.34(i).

Your deliberate actions placed, your former employer, R&M-Ketchikan, in violation of NRC requirements. Enclosure 2 includes a copy of the Notice of Violation and Proposed Imposition of Civil Penalty issued to R&M-Ketchikan. Given the significance of the underlying issue and the deliberate nature of your actions, your violation of 10 CFR 30.10 has been categorized in accordance with the NRC Enforcement Policy at Severity Level III.

In determining the appropriate sanction to be issued in this case, the NRC considered issuing an Order prohibiting your involvement in NRC-licensed activities as a result of your actions. However, after consultation with the Director, Office of Enforcement, and after considering the circumstances of this case, including the facts that: (1) the actual safety significance was low, and (2) R&M-Ketchikan took disciplinary action against you, I have decided to issue the enclosed Notice of Violation. You should be aware that if you are involved in NRC-licensed activities in the future, additional deliberate violations could result in more significant enforcement action or criminal action.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

You may still request alternative dispute resolution (ADR) with the NRC in an attempt to resolve this issue. As described in our July 9, 2008, letter, ADR is a general term encompassing various techniques for resolving conflict outside of court using a neutral third party. The technique that the NRC has decided to employ is mediation. Additional information concerning the NRC's program is described in the enclosed brochure (NUREG/BR-0317) and can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third party. Please contact ICR at 877-733-9415 within 10 days of the date of this letter if you are now interested in pursuing resolution of this issue through ADR.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure(s), and your response, if you choose to provide 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's Web site <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, unless you provide a sufficient basis to withdraw this violation within the timeframe specified above (30 days) for a response to this Notice of Violation. The NRC also includes significant enforcement actions on its Web site at [www.nrc.gov/reading-rm/doc-collections/enforcement/actions/](http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/). In addition, this letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at [www.nrc.gov/reading-rm/foia/privacy-systems.html](http://www.nrc.gov/reading-rm/foia/privacy-systems.html). The NRC-3 system provides information on individuals that have been considered for or have been issued an enforcement action.

You may contact Mr. William Jones or Ms. Christi Maier of my staff if you have any questions. Mr. Jones may be reached at 817-860-8182 and Ms. Maier may be reached at 817-860-8217.

Sincerely,

*/RA/*

Elmo E. Collins  
Regional Administrator

Enclosures:

1. NOTICE OF VIOLATION
2. NOTICE OF VIOLATION AND  
PROPOSED IMPOSITION OF  
CIVIL PENALTY ISSUED TO  
R&M ENGINEERING-KETCHIKAN, INC.
3. NUREG/BR-0317 Post-Investigation ADR Program

**DISTRIBUTION:**

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<a href="mailto:William.Jones@nrc.gov">William.Jones@nrc.gov</a>	<a href="mailto:Michael.Vasquez@nrc.gov">Michael.Vasquez@nrc.gov</a>	<a href="mailto:Jack.Whitten@nrc.gov">Jack.Whitten@nrc.gov</a>
<a href="mailto:Christi.Maier@nrc.gov">Christi.Maier@nrc.gov</a>	<a href="mailto:Blair.Spitzberg@nrc.gov">Blair.Spitzberg@nrc.gov</a>	<a href="mailto:Sally.Merchant@nrc.gov">Sally.Merchant@nrc.gov</a>
<a href="mailto:Bill.Maier@nrc.gov">Bill.Maier@nrc.gov</a>	<a href="mailto:Randy.Erickson@nrc.gov">Randy.Erickson@nrc.gov</a>	<a href="mailto:Nicole.Coleman@nrc.gov">Nicole.Coleman@nrc.gov</a>
<a href="mailto:Victor.Dricks@nrc.gov">Victor.Dricks@nrc.gov</a>	<a href="mailto:Linda.Mclean@nrc.gov">Linda.Mclean@nrc.gov</a>	<a href="mailto:Michelle.Burgess@nrc.gov">Michelle.Burgess@nrc.gov</a>
<a href="mailto:Marisa.Herrera@nrc.gov">Marisa.Herrera@nrc.gov</a>	<a href="mailto:Greg.Morell@nrc.gov">Greg.Morell@nrc.gov</a>	<a href="mailto:Ashley.Tull@nrc.gov">Ashley.Tull@nrc.gov</a>
<a href="mailto:Crystal.Holland@nrc.gov">Crystal.Holland@nrc.gov</a>	<a href="mailto:Kevin.Pryer@nrc.gov">Kevin.Pryer@nrc.gov</a>	
<a href="mailto:R4ALLEGATION.resource@nrc.gov">R4ALLEGATION.resource@nrc.gov</a>		

NMSB-A Inspector(s)  
RIV Materials Docket File (5th Floor)

SUNSI Review Completed: ADAMS:  Yes Initials: MCM  
 Non-Publicly Available  Publicly Available  Sensitive  Non-Sensitive

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Ketchikan S Menzies HQ.doc

RIV:ACES:ES	C:ACES	C:NMSB-A	RC	DD:DNMS	
MCMaier	WJones	VHCampbell	KSFuller	CLCain	
<b>/RA/</b>	<b>/RA/</b>	<b>/RA/ ADG for</b>	<b>/RA/</b>	<b>/RA/</b>	
08/01/08	08/04/08	08/06/08	08/08/08	08/15/08	
D:DNMS	DRA	FSME	OGC	OE	RA
ATHowell	CACasto	MBurgess	CMarco	NHilton	EECollins
<b>/RA/ CLC for</b>	<b>/RA/</b>	<b>/RA/ E</b>	<b>LClark for</b>	<b>/RA/ E</b>	<b>/RA/</b>
08/15/08	08/15/08	08/25/08	09/03/08	09/04/08	9/10/08

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T=Telephone E=E-mail F=Fax

## NOTICE OF VIOLATION

Scot A. Menzies  
[HOME ADDRESS DELETED  
UNDER 10 CFR 2.390(a)]

IA-08-010

During an NRC inspection and investigation conducted September 20, 2007, through June 3, 2008, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 30.10(a)(1) states, in part, that an employee of a licensee may not engage in deliberate misconduct that causes or would have caused a licensee to be in violation of any rule, regulation, or order.

10 CFR 30.34(i) requires that each portable gauge licensee shall 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, as of September 20, 2007, Mr. Scot A. Menzies deliberately failed to use a minimum of two independent physical controls that formed tangible barriers to secure portable gauges from unauthorized removal, when the portable gauges were not under the control and constant surveillance of the licensee. Specifically, Mr. Menzies did not use tangible barriers to secure portable gauges from unauthorized removal while in storage in the R&M Engineering-Ketchikan, Inc., facility located in Ketchikan, Alaska.

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

Pursuant to the provisions of 10 CFR 2.201, Mr. Scot A. Menzies is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region IV, 612 East Lamar Blvd., Suite 400, Arlington, Texas, and marked "Open by Addressee Only", 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; IA-08-010" 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. 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 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 [www.nrc.gov/reading-rm/pdr.html](http://www.nrc.gov/reading-rm/pdr.html) or [www.nrc.gov/reading-rm/adams.html](http://www.nrc.gov/reading-rm/adams.html), to the extent possible, it should not include any personal privacy, proprietary, or safeguards

Enclosure 1

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. This letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at [www.nrc.gov/reading-rm/foia/privacy-systems.html](http://www.nrc.gov/reading-rm/foia/privacy-systems.html). The NRC-3 system provides information on individuals that have been considered for or have been issued an enforcement action.

Dated this 10<sup>th</sup> day of September 2008