

October 3, 2008

EA-08-266

Roger Sparks  
City Engineer  
City of St. Joseph  
Department of Public Works & Transportation/Engineering Division  
1100 Frederick Avenue  
St. Joseph, MO 64501

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 030-17372/2008-001(DNMS) –  
CITY OF ST. JOSEPH

Dear Mr. Sparks:

This refers to the inspection conducted on August 26, 2008, at your St. Joseph, Missouri facility with continued in-office review through September 5, 2008. The purpose of this inspection was to examine activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations and with the conditions in your license. Within these areas, the inspection consisted of a selected examination of procedures and representative records, observations of activities, and interviews with personnel. The enclosed report presents the results of this inspection

Based on the results of this inspection, one apparent violation of 10 CFR 30.34(i) was identified and 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 involved a failure to use a minimum of two independent physical controls that form tangible barriers to secure a portable gauge whenever the gauge is not under the control and constant surveillance of the licensee. The circumstances surrounding the apparent violation, the significance of the issues, and the need for lasting and effective corrective action were discussed with members of your staff at the inspection preliminary exit meeting on August 26, 2008, and during the final exit meeting with Mr. John Lawrence, Radiation Safety Officer, via telephone on September 5, 2008. As a result, it may not be necessary to conduct a Pre-decisional Enforcement Conference (PEC) in order to enable the NRC to make an enforcement decision. The NRC also identified an additional apparent violation that is not being considered for escalated enforcement. This apparent violation was evaluated in accordance with the NRC Enforcement Policy and involved the failure to conduct a physical inventory every six months as required by your license. The circumstances surrounding this apparent violation are also described in detail in the subject inspection report.

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 action, 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 staff 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 violations addressed in this inspection report within 30 days of the date of this letter or (2) request a PEC. If a PEC is held, it will be open for public observation, and the NRC will issue a press release to announce the time and date of the conference. Please contact Patrick Loudon at (630) 829-9627 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, it should be clearly marked as a "Response to an Apparent Violation in Inspection Report No. 030-17372/2008-001(DNMS); EA-08-266" and should include for each 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. 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 PEC.

If you choose to request a PEC, the conference will afford you the opportunity to provide your perspective on the apparent violation and any other information that you believe the NRC should take into consideration before making an enforcement decision. The topics discussed during the conference may include: information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned to be taken. 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.

In addition, please be advised that the number and characterization of apparent violations 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.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, 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 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.

R. Sparks

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If you have any questions concerning this matter, please contact Patrick Loudon of my staff at (630) 829-9627.

Sincerely,

*/RA/*

Steven A. Reynolds, Director  
Division of Nuclear Materials Safety

Docket No. 030-17372  
License No. 24-18931-01

Enclosures:

1. Inspection Report
2. Excerpt from NRC Information Notice 96-28.

cc: State of Missouri

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See next page

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R. Sparks

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Letter to Roger Sparks from Steven A. Reynolds dated

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 030-17372/2008-001(DNMS) –  
CITY OF ST. JOSEPH

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**U.S. NUCLEAR REGULATORY COMMISSION**

**REGION III**

Docket No. 030-17372

License No. 24-18931-01

Report: 030-17372/2008-001(DNMS)

Licensee: City of St. Joseph

Location Inspected: 1100 Frederick Avenue  
St. Joseph, Missouri

Inspection Date: August 26, 2008

Exit Meeting: September 5, 2008

Inspector: Samuel Mulay, Health Physicist

Approved by: Patrick Loudon, Chief  
Materials Inspection Branch

## **EXECUTIVE SUMMARY**

**City of St. Joseph  
St. Joseph, Missouri  
NRC Inspection Report 030-17372/2008-001(DNMS)**

This was a routine inspection conducted on August 26, 2008, to review the activities conducted under the license as they relate to safety and compliance with the Commission's rules and regulations and with conditions in the license.

The inspector identified an apparent violation of Title 10 Code of Federal Regulations (CFR) Part 30.34(i) associated with the licensee's failure to use a minimum of two independent physical controls that form tangible barriers to secure the portable gauge whenever the portable gauge is not under the control and constant surveillance of the licensee. The occurrence involved the licensee storing a moisture/density gauge in a locked storage room with the key in the door lock rendering the physical barrier ineffective. Additionally, a second independent physical barrier was not provided. The inspector also identified an apparent violation of Condition 16 of NRC License No. 24-18931-01 involving the licensee's failure to conduct a physical inventory every six months to account for all sources and devices received and possessed under the license.

The root cause of the first apparent violation was the licensee's failure to recognize that the main access storage room door was rendered unsecured by virtue of leaving the key in the door handle. Further, the Radiation Safety Officer (RSO) indicated that he was unaware of the change in the regulations.

The licensee implemented corrective actions to prevent removal of the gauge from the storage room by immediately removing the key from the door lock. In subsequent electronic correspondence, dated September 2, 2008, the licensee described the implementation of a chain and padlock system within the storage room to address the required second physical barrier. In addition, the RSO would maintain accountability of the storage room key and accompany individuals requiring access to the storage room for archive reviews.

The root cause of the second apparent violation was the licensee's misunderstanding that a physical inventory was required every six months even when the gauge is in extended storage. The licensee implemented corrective actions that included developing a six-month inventory log to track location and usage of the device.

## Report Details

### 1 Program Scope and Inspection History

The City of St. Joseph (licensee) possesses a single portable moisture density gauge used infrequently to evaluate the physical properties of soil at an area landfill in St. Joseph, Missouri. The licensee is authorized by NRC License No. 24-18931-01 to possess and use portable gauges at temporary job sites anywhere in the United States where the NRC maintains regulatory jurisdiction. At the time of the inspection, the licensee possessed a Campbell Pacific Model MC Series gauge, containing authorized quantities of licensed material.

The licensee was previously inspected with no violations identified on March 14, 1996, and January 28, 2003.

### 2 Security of Portable Gauges

#### 2.1 Inspection Scope

The inspector reviewed the licensee's method of securing portable gauges by interviewing an authorized user and the Radiation Safety Officer (RSO), observing selected licensed activities, and reviewing selected licensee records.

#### 2.2 Observations and Findings

The inspector observed a gauge in a storage room, which is also used for document archives, in the licensee's facility in St. Joseph, Missouri. The storage room door was locked; however, the key was left in the door lock handle. Upon entering the storage room, the inspector further observed the transport case containing the gauge on the floor with only a padlock on the case lid and no other physical barrier. The RSO indicated that the door is left in this condition to facilitate entry into the room for archive files. The RSO also indicated that he was unaware that Title 10 Code of Federal Regulations (CFR) 30.34(i) required two independent physical controls that form tangible barriers to secure the case and the gauge.

Title 10 CFR 30.34(i) requires that the licensee use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever the gauges are not under the control and constant surveillance of the licensee. The licensee maintained the key in the lock of the storage room access door rendering the gauge accessible to unauthorized entry. In addition, the licensee's did not maintain a second independent physical barrier within the storage room. This is an apparent violation of 10 CFR 30.34(i).

The root cause of the first apparent violation was the licensee's failure to recognize that the main access storage room door was rendered unsecured by virtue of leaving the key in the door handle. Further, the Radiation Safety Officer (RSO) indicated that he was unaware of the change in the regulations.

The licensee implemented corrective actions to prevent removal of the gauge from the storage room by immediately removing the key from the door lock. In subsequent electronic correspondence, dated September 2, 2008, the licensee described the implementation of a chain and padlock system within the storage room to address the required second physical barrier. In addition, the RSO would maintain accountability of the storage room key and accompany individuals requiring access to the storage room for archive reviews.

### 2.3 Conclusions

The inspector identified an apparent violation of 10 CFR 30.34(i) involving the licensee's failure to use a minimum of two independent physical controls that form tangible barriers to secure the portable gauge whenever the portable gauge was not under the control and constant surveillance of the licensee. The licensee committed to implement corrective actions to prevent a similar violation.

## **3 Physical Inventories of Licensed Material**

### 3.1 Inspection Scope

The inspector reviewed the licensee's method for conducting physical inventories of licensed material by interviewing selected licensee staff.

### 3.2 Observations and Findings

The licensee was required to conduct a physical inventory of licensed material every six months. Since the device had been in storage and not used since approximately May 2006, the physical inventory was not performed. The licensee's RSO indicated that he did not understand that an inventory was required every six months even when the gauge is in extended storage.

License Condition No. 16 of NRC license No. 24-18931-01 requires the licensee to conduct physical inventories every six months, or at other intervals approved by NRC, to account for all sources and/or devices received and possessed under the license. The licensee's failure to perform the physical every six months, and no other intervals were approved by NRC, is an apparent violation of Condition No. 16 of NRC License No. 24-18931-01. The licensee implemented corrective action to prevent recurrence by developing a six month inventory log to track location and usage of the device.

### 3.3 Conclusion

The inspector identified an apparent violation of License Condition No. 16, involving the licensee's failure to conduct a physical inventory every six months. The licensee implemented corrective actions to prevent a similar violation.

## **4 Other Areas Inspected**

### **4.1 Inspection Scope**

The inspector reviewed other areas of the licensee's radiation safety program by reviewing selected licensee records, including dosimetry records, shipping paper accessibility, leak tests, emergency procedures, posting and labeling, interviews with the RSO, and an authorized gauge user.

### **4.2 Observations and Findings**

Leak tests are performed per the manufacturer's specifications. According to licensee representatives, the device has been in storage and not used since approximately May 2006. Leak tests are not required while the device is in storage and not being used. The device was last leak tested in November 2005, with no contamination identified. The requirement to leak test the device prior to use or transfer was discussed with the RSO during the inspection.

The licensee maintained a dosimetry program which demonstrated that no individual received a radiation exposure in excess of regulatory limits. In discussions with an authorized gauge user at the landfill, it was indicated that the device is under constant control and surveillance at that site and is returned to the main storage room at the completion of work activities. In addition, the user had an adequate knowledge of emergency procedures. Posting of the storage room door as well as labeling of the case and gauge was adequately maintained. Content of shipping papers and accessibility were discussed with the RSO and a gauge user during the review.

### **4.3 Conclusions**

No violations of NRC requirements were identified.

## **5 Exit Meeting Summary**

The inspector discussed the preliminary conclusions, as described in this report, with licensee management during the exit meeting conducted at the licensee's facility on August 26, 2008, and during a final exit meeting conducted via telephone on September 5, 2008. The inspector discussed the areas reviewed, inspection findings, apparent violations and corrective actions. The licensee did not identify any information reviewed during the inspection and proposed for inclusion in the inspection report as proprietary in nature.

PARTIAL LIST OF PERSONNEL CONTACTED

- \* Roger Sparks, City Engineer  
William Blacketer, Staff Engineer
- \* + John Lawrence, RSO

- \* Attended the preliminary exit meeting on August 26, 2008
- + Attended the final exit meeting via telephone on September 5, 2008