



Niles Steel Tank Company

**Response to an Apparent Violation in Inspection Report No. 030-04829/2009-001;
EA-09-260**

Subject: Violations of Title 10 Code of Federal Regulations and Corrective Actions Taken.

Area of Violation:

- a) 10 CFR 20.1801, Failure to secure a radiography camera containing Iridium 192 source from unauthorized removal of access.
- b) IC-5, retain all documentation required by the increased controls for three years.
- c) 10 CFR 30.34(b) No NRC license nor any right under the licensee shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly...

Date of Violation:

- a) Between August 24, 2009 and September 9, 2009
- b) August 24, 2009
- c) 2002 at transfer of ownership to Bradford White Corp.

Response & Corrective Actions Pertaining to Violations Stated:

Due to the nature of the violations stated above, this report will address each of these issues in a chronological order, as they occurred, as this will show Niles Steel Tank Company adhered closely to the requirements of the Nuclear Regulatory Commission and that the above violations occurred due to lack of information and/or communication.

First, one clerical issue needs to be resolved regarding dates of the current Director of Operations' start date with Niles Steel Tank Company. Per Enclosure 1, the start date of the current Director of Operations was actually July 28, 2008 and not March 2008 as stated in the report. Jeremy Waller had been working with Niles Steel Tank Company on projects, but until the July 28, 2009 date was still an employee of the Bradford White Corporation.



1st Violation:

Identification and Reason:

The initial chronological violation to occur was letter “c” under the “Area of Violation” category, license transfer violation. Contact was made to the NRC regarding the change of ownership by Bradford White Corporation’s legal counsel who spoke with Mr. James Mullauer (No enclosures due to sensitive information, can furnish if required). According to legal counsel the stock ownership change of Niles Steel Tank Company did not change the management or oversight and control of licensed nuclear material. Therefore the interpretation was held and that no additional transfer documentation was required. Niles Steel Tank Company was/is considered a wholly owned subsidiary and operated as a profit center and therefore controls the operation from the Niles Steel Tank Facility. Per the checklist of information required for change of ownership in a fax submittal, dated 7/19/02 (No enclosures due to sensitive information, can furnish if required), none of the information; company name, operations, facility, records retention location, or personnel having control over the licensed material were modified. This, again, is due to the fact that Niles Steel Tank Company was neither transferring nor terminating a license and the acquiring corporation would neither eliminate Niles Steel Tank Company nor take ownership of the license to extend use at other facilities. Based on the interpretation reached by Bradford White counsel with NRC staff this matter was considered closed.

Niles Steel Tank Response:

Based on the information gathered from researching this issue, a written response to the questioning by Bradford White counsel should have been obtained to verify that the discussions had taken place and that the current arrangement was approved through correct NRC channels. This request for a written statement may have triggered more discussion and prompted the requirement for submission of the required data for addition to the Niles Steel Tank Company files or perhaps a submission for an addendum. In either outcome the conversations or information would have been documented.



2nd Violation:

Identification and Reason:

The second chronological violation to occur was letter “b” under the “Area of Violation” category, security of sensitive information. Under the “Increased Controls” IC6 imposed the requirement for procedures to withholding sensitive information from public viewing and outlined requirements for setting these procedures and areas to be included. Per a letter from the former Niles Steel Tank Company RSO, dated 12/09/09, (No enclosures due to sensitive information, can furnish if required) there was confusion regarding information received electronically, via email. Niles Steel Tank Company’s electronic data receiving system utilizes a server that is accessible by IT personnel at the parent company’s manufacturing facility. The former RSO had questioned how he should secure sensitive information when it is through a server system. He made the decision to have the information sent to his personal email and stored all sensitive data on his personal laptop. He felt this was secure due to the fact it was not on a server system and he had sole custody of the information. Former management of Niles Steel Tank Company approved this decision.

Niles Steel Tank Response:

Further communication with NRC should have commenced to verify the requirements for collection and security of information sent and received electronically. This furthered discussion would have culminated in the appropriate means for storage and transmittal of sensitive information via a server system.



3rd Violation:

The third chronological violation to occur was letter “a” under the “Area of Violation” category, failure to secure a radiography camera containing Iridium 192 source from unauthorized removal of access. On August 24, 2009 the tenure of the present RSO for Niles Steel Tank Company was released. The RSO was the sole person at the Niles Steel Tank Company facility with intimate knowledge of all requirements and procedures under the current NRC guidelines. Due to this issue, and prior to the termination of the RSO, management had contacted a local NDE Service company to act on behalf of Niles Steel Tank Company regarding any RSO duties. This change was in process when the current RSO at Niles Steel Tank Company was released. Further, Management at Niles Steel Tank Company, after discussing situation with NRC staff member Robert Guittone, was in the process of obtaining Trustworthiness and Reliable status (Information Only)(Enclosures 2, 3, 4). Management was also taking classes in Radiography and Radiation Health & Safety to further understand the process and requirements under current guidelines (Enclosures 5, 6, 7). Due to the responsibilities previously assigned to the RSO under previous management; Radiographer, Quality Manager, T&R Official as well as RSO, it was difficult for current Management to request and obtain T&R status. The RSO had Carte Blanc control over the entire Radiography and Radiation Safety program. Ultimately, due to economic feasibility it was determined to terminate the Niles Steel Tank Company license for use of controlled materials. In initiating the termination process, Management was in contact with the local NDE Service Company to assist in the termination process. Discussions were held with respect to what Management at Niles Steel Tank Company would need to do for this process to be completed. The procedure for re-establishing a secured PRI once the current RSO was released was, unfortunately, not discussed. This led to the occurrence of the violation.

Niles Steel Tank Response:

Increased communication with the NRC and possible teleconference with NRC, Niles Steel Tank Company and local NDE Service Company could have prevented this violation from occurring. Increased education of Management with respect to the guidelines required by NRC and the increased controls would have also allowed for better preparation in the license termination process.



Corrective Action Summation:

Due to the events that have occurred and the knowledge gained through the course of the license termination process, and recent audit, current Management is more educated with respect to the NRC guidelines and requirements. As well, current Management has a better understanding of management rights under the NRC guidelines and the need for communication between the RSO, Upper Management, and the NRC to maintain proper oversight of all licensed activities. Moving forward, if Niles Steel Tank Company finds it economically feasible to re-enter an On-Site Radiography Program it will be with a greater understanding of guidelines and requirements, as well as an increased ability to effectively oversee licensed activities.

Niles Steel Tank Company

A handwritten signature in black ink that reads 'Jeremy D Waller'. The signature is written in a cursive style with a large, sweeping 'J' and 'W'.

Jeremy D Waller
Director of Operations
269-683-1910 Telephone
269-683-1953



Date: July 29, 2008
To: All Bradford White Employees and Niles Steel Tank Employees
From: Eric Lannes

Bradford White is excited to announce the promotion of Jeremy Waller to Director of Operations at Niles Steel Tank effective July 28, 2008. Jeremy will report to me and will be phasing out of his position in Middleville and into his new position at Niles over the next six weeks.

Jeremy joined Bradford White in January 2002 as a Project Coordinator and held numerous positions before being promoted to his current position of Advanced Quality Systems Manager in May 2007. His background with Progressive Dynamics and Monark Equipment Technology Company has provided Jeremy with valuable experience in specialty, low volume manufacturing techniques. His knowledge, expertise and drive will help Niles Steel Tank Company become the supplier of choice for specialty tanks, enameled products and re-glassing.

Jeremy holds a bachelors degree in Business Management from Northwood University and a M.B.A. from Baker College.

Please join me in congratulating Jeremy on his promotion and assist him in making a successful transition to his new role.



February 25, 2009

To Whom It May Concern:

During Jeremy Waller's tenure at Bradford White Corporation, he continually practiced a superb work ethic which made him a hands down choice for advancement. Each new assignment was embraced with integrity, confidence and responsibility. He seamlessly navigated through his advancements, most recently from his position as Advanced Quality Systems Manager at the Middleville location, to Director of Operations at Niles Steel Tank. While a substantial loss to Bradford White Corporation, it was Jeremy's intelligent, steadfast nature that made him an obvious selection to lead operations at our Niles plant.

Mr. Waller maintains a mature, consistent outlook toward any duties assigned him. Words that continually come up when describing Jeremy are honest and dependable. He is well respected by all co-workers regardless of age, position or stature.

It is with the utmost confidence that I recommend Mr. Jeremy Waller be accepted as a Trustworthy and Reliable Employee.

Very truly yours,

BRADFORD WHITE CORPORATION

A handwritten signature in black ink, appearing to read "Eric M. Lannes", is written over the company name.

Eric M. Lannes
Executive Vice-President & General Manager

EML:kl

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March 6, 2009

To Who It May Concern:

Dear Madam or Sir:

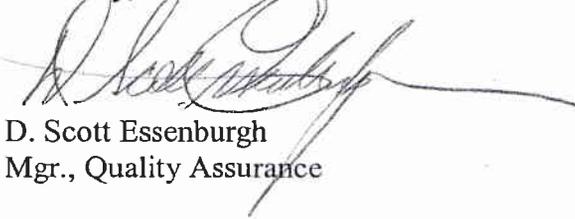
I had the privilege of working with Mr. Jeremy D. Waller at Bradford White Corporation for a period of approximately five years. In that time, I had the opportunity to observe Mr. Wallers' behavior, job performance and his integrity. In his responsibilities, he was required to work with safety critical, sensitive and confidential information on a daily basis.

To his credit, Mr. Waller performed all tasks with integrity. He has a great work ethic and is a person I have been happy to be associated with. I would, without question, recommend Mr. Waller for any position that involved sensitive, confidential or protected information and/or processes and be confident that he would perform any task given him with the utmost of care and confidentiality.

If you have any questions, I would be happy to discuss them with you. Please feel free to contact me at: (269) 795-5911.

Thank you.

Sincerely,



D. Scott Essenburgh
Mgr., Quality Assurance

"Count on Bradford White for Everything Hot Water"

200 Lafayette Street • Middleville, MI 49333
269•795•3364 Fax 269•795•2165

Enclosure 3



March 5, 2009

To Who It May Concern

Dear Sir or Madam;

Please be advised that in my capacity as Vice President, Engineering for Bradford White Corporation, Mr. Jeremy D. Waller was a direct subordinate of mine for over five years. During this period, I had the opportunity to continuously observe, monitor and evaluate his job performance and personal traits. His job responsibilities required him to work with highly safety critical, sensitive and confidential information on a frequent basis.

Without exception, Mr. Waller demonstrated an outstanding work ethic and was trustworthy and reliable. Accordingly, I can completely recommend Mr. Waller for any position where he would be required to work with sensitive, protected information.

If you have any questions or need additional information, please feel free to contact me at (269) 795-3364 extension 5912.

Best regards;

Bradford White Corporation

A handwritten signature in black ink, appearing to read "Michael W. Gordon".

Michael W. Gordon
Vice President, Engineering

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HELLIER AWARDS THIS
CERTIFICATE TO

Jeremy D. Waller

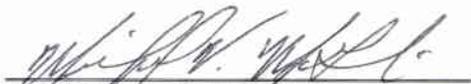
IN RECOGNITION OF HAVING SUCCESSFULLY
COMPLETED AN EDUCATIONAL COURSE, AND
DEMONSTRATED PROFICIENCY BY SATISFACTORY
COMPLETION OF AN EXAMINATION ON THE SUBJECT OF

RADIATION HEALTH & SAFETY
For Industrial Radiography
(40 Hours)

IN WITNESS THEREOF THESE SIGNATURES HAVE BEEN

HERE TO AFFIXED

January 30, 2009


MANAGER - PACIFIC


INSTRUCTOR



 **HELLIER**

TECHNICAL TRAINING & CONSULTING
A ROCKWOOD COMPANY

Enclosure 5

HELLIER AWARDS THIS
CERTIFICATE TO

Jeremy D. Waller

IN RECOGNITION OF HAVING SUCCESSFULLY
COMPLETED AN EDUCATIONAL COURSE, AND
DEMONSTRATED PROFICIENCY BY SATISFACTORY
COMPLETION OF AN EXAMINATION ON THE SUBJECT OF

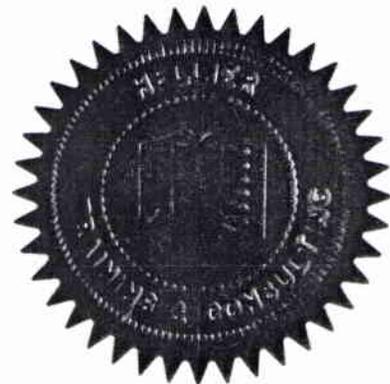
Radiographic Testing
Level I
(40 Hours)

IN WITNESS THEREOF THESE SIGNATURES HAVE BEEN
HERETO AFFIXED

10/17/2008


MANAGER - HELLIER NORTHEAST


INSTRUCTOR



 HELLIER

TECHNICAL TRAINING & CONSULTING
A ROCKWOOD COMPANY

Enclosure 6

HELLIER AWARDS THIS
CERTIFICATE TO

Jeremy D. Waller

IN RECOGNITION OF HAVING SUCCESSFULLY
COMPLETED AN EDUCATIONAL COURSE, AND
DEMONSTRATED PROFICIENCY BY SATISFACTORY
COMPLETION OF AN EXAMINATION ON THE SUBJECT OF

**RADIOGRAPHIC TESTING
LEVEL II
(40 Hours)**

IN WITNESS THEREOF THESE SIGNATURES HAVE BEEN
HERE TO AFFIXED
December 5, 2008


MANAGER - PACIFIC


INSTRUCTOR



 **HELLIER**

TECHNICAL TRAINING & CONSULTING
A ROCKWOOD COMPANY

Enclosure 7