

December 28, 2009

U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555-0001

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DNMS

"Reply to a Notice of Violation; EA-09-261

Dear Sirs:

This letter is our written statement in response to the above mentioned violation per your letter of December 10, 2009. The following is an item by item response to the violations listed in the "Notice of Violations:

A. 10 CFR 30.34(i), Two Independent Physical Controls

The violation occurred as the result of the authorized user not following your requirements to properly store and secure the gauge when not in use. The gauge was immediately secured by two independent physical controls. In addition, the authorized user (we only have one authorized user at this time) was sternly reprimanded for not following procedures, he knew of this requirement but had become complacent in his performance. A Gauge User "Dailey Step-by-Step" Tutorial has been down loaded from the American Portable Nuclear Gauge Association web site and the authorized user will be required to review this material each year prior to the start of our construction season (May of each year), this tutorial provides training on properly securing the gauge. In addition, as the RSO I will try to do a better job of supervising the authorized gauge user and auditing the storage of the gauge to assure this requirement is being complied with. Full compliance was achieved at the time the violation was identified and full compliance has been achieved since the incident was reported.

B. 10 CFR 20.110(c), Annual Audit.

I was unaware that this annual audit was required since prior NRC inspections had not identified this requirement and our noncompliance with this requirement. The NRC inspector provided me with NUREG 1556 volume 1 Appendix F, "Portable Gauge Audit check List" as a form for me to conduct the required annual audit. On October 6, 2009 I completed an Annual Audit using that form and saved the completed form in our gauge records to document compliance with this requirement. Each year in October I will perform an audit using the supplied form to assure full compliance with this requirement in the future.

C. 10 CFR 71.5(a) and 49 CFR 177.817(a) Shipping Papers.

The violation occurred as the result of the authorized user not following your requirements to carry proper shipping papers when transporting the gauge. The shipping papers were left at the Hailey permanent storage location when the gauge was transported to Ketchum. The shipping papers were retrieved prior to transporting the gauge back to Hailey for permanent storage. The gauge has not been transported again since returning to Hailey. In addition, the authorized user (we only have one authorized user at this time) was sternly reprimanded for not following procedures, he knew of this requirement but had become complacent in his performance. A Gauge User "Dailey Step-by-Step" Tutorial has been down loaded from the American Portable Nuclear Gauge Association web site and the authorized user will be required to review this material each year prior to the start of our construction season (May of each year), this tutorial provides training on proper use of shipping papers. In addition, as the RSO I will try to do a better job of supervising the authorized gauge user and auditing the use of shipping papers to assure this requirement is being complied with. Full compliance was achieved at the time the violation was identified and full compliance has been achieved since the incident was reported.

D. 10 CFR 20.1902(e), "Radioactive Material" safety sign

I have no good excuses for not having a proper "Radioactive Materials" safety sign on the storage room door at the Hailey Office. A sign had been previously located on that door but was not present during the NRC inspection. The cabinet in the basement of the Ketchum Office where the gauge is to be stored at that location is provided with a "Radioactive Material" safety sign and on September 22, 2009 a radioactive materials sign was provided on the door to the storage room in the garage where the gauge is permanently stored in Hailey. As RSO I will continuously monitor these storage locations in the future to assure this requirement is being complied with.

E. 10 CFR 71.5 (a) and 49 CFR 172, DOT Hazmat Training

I was not aware that authorized users must have DOT hazmat training including a written test on a three year minimum basis; this had not been identified as a noncompliance issue with previous NRC inspections. Other than transporting the gauge back to Hailey for permanent storage the authorized user has not transported the gauge since this noncompliance was identified. I have located an internet training class and associated test offered by the American Technical Institute titled "102-Hazardous Materials DOT Training - Portable Nuclear Gauge". Our single authorized user is on Vacation until after the first of the year. The authorized user has been notified of this requirement and will complete the abovementioned online training class and test by the end of January; this will assure full compliance by the time our construction season starts up again in May 2010 which represents the earliest the gauge will be transported in the future. In addition, since I am now aware of this requirement I will assure any future gauge users complete this training prior to transporting the gauge and will also include this item in my annual audit to help assure compliance.

F. 10 CFR 30.34(c), Storage Location

At the time of our previous NRC inspection in September 2004, our storage location in Hailey was reviewed and I was lead to believe that storage at this location was approved with no mention that our material license must be amended to include that location. When I became aware of this violation I submitted a letter dated September 8, 2009 to the NRC requesting our License be amended to allow the gauge to be stored at our Hailey office. As a result of that request our license has been amended and we are now in full compliance with this requirement.

Thank you and your staff for working with us to correct these violations. If you have additional comments or need further information, please feel free to call.

Sincerely,



Michael D. Choat PE/PLS  
Galena Engineering Inc.

cc: U.S. Nuclear Regulatory Commission  
Regional Administrator, Region IV  
Arlington, Texas 76011-4125