

April 1, 2010

EA-10-026

Mr. Mike Geisel, P.E.
Director of Planning and Public Works
City of Chesterfield
690 Chesterfield Parkway West
Chesterfield, MO 63017

SUBJECT: NOTICE OF VIOLATION – CITY OF CHESTERFIELD, MISSOURI
NRC INSPECTION REPORT NO. 03031272/2010-001(DNMS)

Dear Mr. Geisel:

This refers to the inspection conducted on February 5, 2010, at the City of Chesterfield, Missouri. This 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 your license. Details regarding the violation were provided in U.S. Nuclear Regulatory Commission (NRC) Inspection Report No. 03031272/2010-001(DNMS), dated March 2, 2010. The circumstances surrounding the violation, the significance of the issues, and the need for lasting and effective corrective action was discussed with you at the inspection exit meeting on February 5, 2010.

In the letter transmitting the inspection report, we informed you that we had sufficient information regarding the violation and your corrective actions to make an enforcement decision without the need for a Predecisional Enforcement Conference or a written response from you. In a telephone conversation on March 11, 2010, with Geoffrey Warren, Health Physicist, you indicated that you agreed with the violation and will not be providing any additional information.

Based on the information developed during the inspection, the NRC has determined that one violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice), and the circumstances surrounding it are described in detail in the subject inspection report. The violation involved the failure to use a minimum of two independent physical controls that form tangible barriers to secure portable gauges, whenever the gauges were not under the control and constant surveillance of the licensee. We determined that the root cause for the violation was that licensee personnel misunderstood the requirements in Title 10 of the Code of Federal Regulations (10 CFR) 30.34(i), believing that the lock on the gauge case constituted a barrier to removal of the gauge. Because of this, licensee personnel believed that the gauges were adequately secured in the trucks. However, the lock on the case would not prevent removal of the gauge in its case.

The violation is of concern to the NRC because the failure to provide two tangible barriers could potentially have resulted in the radioactive material being stolen and exposures to members of the public. Therefore, the violation has been categorized, in accordance with the NRC Enforcement Policy, as a Severity Level III violation.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3500 is normally considered for a Severity Level III violation. Because your facility has not been the subject of escalated enforcement actions within the last two years, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process described in Section VI.C.2 of the Enforcement Policy. As corrective actions, the Radiation Safety Officer (RSO) committed to: (1) providing chains and locks so that each gauge case could be secured to the inside of the truck bed inside the locked bed cap; and (2) training all gauge users on the requirement to use the chain in addition to the locked bed cap to secure each gauge in its locked case, whenever the truck was not under the control and constant surveillance of a gauge user. On February 11, 2010, the RSO provided the inspector with documentation of your corrective actions indicating that: (1) the cables and locks had been acquired so that the gauges could be secured properly in the trucks; and (2) all gauge users had attended a training session on how to properly secure gauges in the trucks using the cables and locks. The NRC determined that these corrective actions were adequate.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and to prevent recurrence, and the date when full compliance was achieved have already been adequately addressed on the docket in the inspection report dated March 2, 2010, and in the document provided to the NRC by Susan Mueller of your staff on February 11, 2010. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

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

M. Geisel

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Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov/about-nrc/regulatory/enforcement.html.

Sincerely,

/RA/

Mark A. Satorius
Regional Administrator

Docket No. 030-31272
License No. 24-23426-01

Enclosure:
Notice of Violation

cc w/encl: Susan S. Mueller, RSO
State of Missouri

Letter to Mike Geisel, P.E. from Mark A. Satorius dated April 1, 2010

SUBJECT: NOTICE OF VIOLATION – CITY OF CHESTERFIELD, MISSOURI
NRC INSPECTION REPORT NO. 03031272/2010-001(DNMS)

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NOTICE OF VIOLATION

City of Chesterfield
Chesterfield, Missouri

Docket No. 030-31272
EA-10-026

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on February 5, 2010, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the Code of Federal Regulations (10 CFR) 30.34(i) requires that each portable gauge licensee 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, on a number of occasions between July 11, 2005, and January 14, 2010, the licensee failed to use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges were not under the control and constant surveillance of the licensee. Specifically, licensee personnel secured gauges in trucks with only one tangible barrier, the locked truck bed cap, to prevent removal of the gauges while the trucks were not under the control and constant surveillance of the licensee.

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

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to be taken to correct the violation and to prevent recurrence, and the date when full compliance was achieved, have already been adequately addressed on the docket in Inspection Report 030-31272/2010-001(DNMS), dated March 2, 2010, and in the document provided to the NRC by Susan Mueller of your staff on February 11, 2010. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation EA-10-026," and send it to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at

Notice of Violation

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<http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 1st day of April 2010

M. Geisel

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Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov/about-nrc/regulatory/enforcement.html.

Sincerely,

/RA/

Mark A. Satorius
Regional Administrator

Docket No. 030-31272
License No. 24-23426-01

Enclosure:
Notice of Violation

cc w/encl: Susan S. Mueller, RSO
State of Missouri

DISTRIBUTION:
See next page

FILE NAME: G:\EICS\ENFORCEMENT\Enforcement Cases 2010\EA-10-026 City of Chesterfield\EA-10-026 City of Chesterfield Draft Final Action.doc

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NAME	Bakhsh	Bloomer	Reynolds	Day for Zimmerman ¹	Heck for Orth	Satorius
DATE	03/29/10	03/30/10	03/30/10	03/29/10	03/31/10	04/01/10

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1. OE concurrence received via e-mail from K. Day on March 29, 2010.