

August 26, 2010  
EN-10-036

OFFICE OF ENFORCEMENT  
NOTIFICATION OF SIGNIFICANT ENFORCEMENT ACTION

Licensee: Mattingly Testing Services, Inc. EA-10-100  
Molt, Montana Docket No. 030-20836

Individual: Mr. Mark M. Ficek IA-10-028

Subject: ORDER REVOKING LICENSE (EFFECTIVE IMMEDIATELY) AND ORDER  
PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITIES TO AN  
INDIVIDUAL (EFFECTIVE IMMEDIATELY)

This is to inform the Commission that an Order revoking the license will be issued on or about September 1, 2010, to Mattingly Testing Services, Inc., (MTS). MTS is the holder of an NRC materials license which authorizes possession and use of sealed sources for industrial radiographic operations at field stations located in Molt and Billings, Montana, and at temporary jobsites anywhere in the United States where the NRC maintains jurisdiction for regulating the use of licensed material. In a related action, an Order prohibiting engagement in NRC-licensed activities will be issued to the MTS president for multiple and deliberate violations of NRC requirements, including providing material false information to an NRC investigator while under oath and violating an order banning him from NRC-licensed activities. Previously, both MTS and the company president were issued Confirmatory Orders on March 6, 2009, resulting from alternative dispute resolution to disposition nine apparent violations of safety and security requirements identified during an NRC inspection and investigation, several of which were found to be caused by the willful or deliberate actions of the company president, including the president's having provided incomplete or inaccurate information to the NRC.

Based on evidence gathered during an NRC inspection and two investigations initiated in June 2009, this enforcement action is a result of multiple apparent violations of NRC requirements, including: (1) a deliberate failure to implement Confirmatory Order (EA-08-271) requirements regarding assessments of radiation safety procedures and conduct of radiation safety training, as well as other non-willful violations of the same Confirmatory Order; (2) a deliberate failure to implement the NRC Increased Controls Order (EA-05-090) requirement to establish a pre-arranged response plan with the local law enforcement authority (LLEA); (3) two examples of a deliberate failure to provide complete and accurate information to the NRC regarding the pre-arranged response plan with the LLEA, including one example while under oath; (4) a failure to implement the NRC Increased Controls Order (EA-05-090) requirement to have a dependable means to transmit information between, and among, the various components used to detect and identify an unauthorized intrusion, to inform the assessor, and summon the appropriate responder; (5) a failure to properly secure a radiographic exposure device for transport that resulted in the device being lost in the public domain for a short time; and, (6) a willful failure to immediately report the lost radiographic exposure device to the NRC. As a result of these violations, and in consideration that Confirmatory Order (EA-08-271) was issued to resolve prior significant violations of safety and security requirements, the staff determined that the MTS license should be immediately revoked.

The staff also considered that the willful and deliberate violations were a result of actions by the company president. Further, the staff noted that the company president was found in violation

of an individual Confirmatory Order (IA-08-055) by having engaged in NRC licensed activities while banned from such activities. As a result of the deliberate violations, including providing material false information to an NRC investigator, and having engaged in licensed activities during a period that he was banned from such, the staff determined that the president should be prohibited from engaging in NRC licensed activities for a period of seven years.

The licensee and individual have not been specifically informed of these enforcement actions. The schedule of issuance and notification is:

On-site Notification of the licensee & individual	September 1, 2010
Mailing of Orders	September 1, 2010

The State of Montana and all Agreement States will be notified of this action on or about the same date.

CONTACTS: R. Summers, OE, (301) 415-1171      N. Hilton, OE, (301) 415-3055

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