

November 2, 2010

EA-10-163

Mr. William B. Kremer
Radiation Safety Officer
Associate
Shannon and Wilson, Inc.
2043 Westport Center Drive
St. Louis, MO 63146-9660

SUBJECT: NOTICE OF VIOLATION; NRC INSPECTION REPORT
NO. 030-37136/2010-001(DNMS) – SHANNON AND WILSON, INC.

Dear Mr. Kremer:

This refers to the U.S. Nuclear Regulatory Commission (NRC) inspection conducted on August 4, 2010, at your St. Louis, Missouri, facility. 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 of your license. During the inspection, an apparent violation of NRC requirements was identified, associated with control of nuclear gauges when not under the control and constant surveillance of a licensee. Details regarding the violation were provided in NRC Inspection Report No. 030-37136/2010-001(DNMS), dated September 3, 2010. The circumstances surrounding the violation, the significance of the issue, and the need for lasting and effective corrective action were discussed with you at the final exit meeting on August 4, 2010.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation identified in the report by either attending a Predecisional Enforcement Conference or by providing a written response before we made our final enforcement decision. You provided a written response in a letter dated October 5, 2010.

In your October 5, 2010, letter, you provided your account of the three examples of the apparent violation documented in our inspection report. We reviewed the details that you provided and recognized that some of the specific details in your letter were not fully consistent with our report. Our review of this information did not change our characterization of the results. Specifically, we based our conclusion on the following information: (1) the transport container, which was not secured using two independent physical controls at the site, was discussed between the inspector and your technician, who stated that he did not always maintain constant surveillance while the gauge was transported in this manner; (2) while at your main facility, the inspectors directly observed that your receptionist was not always at her desk and that it was possible for a person to enter your facility and proceed to the gauge storage area that consisted of a single locked cabinet (through an empty conference room) without detection; and (3) while at a remote location, access to the area where the gauge was stored (with only one lock) was available to other individuals. In an October 25, 2010, telephone call between your radiation safety officer and Mr. Ed Kulzer of our staff, we discussed your response and confirmed that you did not dispute the examples of the apparent violation.

Based on the information developed during the inspection, and the information provided in your letter dated October 5, 2010, the NRC has determined that a 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 above three examples of 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 as required by Title 10 of the Code of Federal Regulations (10 CFR) 30.34(i). Specifically, on or before August 4, 2010, your staff: (1) secured a portable gauge in an open bed pick-up truck with only one lock securing the gauge case lid; (2) stored portable gauges in a locked cabinet in a room at the St. Louis facility with only one lock securing the cabinet door and (3) stored a portable gauge in a locked metal cabinet in a room of a construction shed at a temporary job site with only one lock securing the metal cabinet while non-licensee employees had access to the construction shed. In all three examples, the portable gauges were not always under the control and constant surveillance of an employee.

The NRC determined that the cause for the violation was that your staff did not fully understand the requirements contained in 10 CFR 30.34(i). 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, with the potential for members of the public to receive a radiation dose above NRC limits. 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 inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process described in Section 2.3.4 of the Enforcement Policy. Your corrective actions included: (1) re-emphasizing to all technicians the need to arrange the chains through both the top and side handles of the travel case when transporting gauges with a single hasp travel case; (2) placing a second hasp and lock on the gauge cabinet door at the St. Louis facility; and (3) placing a hasp and lock on the room door inside the shed at the temporary job site. In addition, all authorized gauge users received training in properly securing the portable gauges when in the field. The NRC reviewed your corrective actions and determined that credit for Corrective Action was warranted.

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 Inspection Report No. 030-37136/2010-001(DNMS), and in your letter dated October 5, 2010.

W. Kremer

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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 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 by Steven West Acting for/

Mark A. Satorius
Regional Administrator

Docket No. 030-37136
License No. 24-18839-02

Enclosure:
Notice of Violation

cc w/encl: State of Missouri

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.

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Sincerely,

/RA by Steven West Acting for/

Mark A. Satorius
Regional Administrator

Docket No. 030-37136
License No. 24-18839-02

Enclosure:
Notice of Violation

cc w/encl: State of Missouri

FILE NAME: G:\ORAI\IICS\ENFORCEMENT\Enforcement Cases 2010\EA-10-163 Shannon & Wilson\EA-10-163 Shannon Wilson Final Action.docx

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OFFICE	RIII	RIII	D:OE	RIII	RIII	RIII
NAME	Lougheed	Bloomer	Lipa for Reynolds	Day for Zimmerman ¹	Orth	West for Satorius
DATE	10/29/10	11/01/10	11/01/10	10/29/10	11/01/10	11/02/10

OFFICIAL RECORD COPY

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

Letter to William B. Kremer from Mark A. Satorius dated November 2, 2010

SUBJECT: NOTICE OF VIOLATION; NRC INSPECTION REPORT
NO. 030-37136/2010-001(DNMS) – SHANNON AND WILSON, INC.

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NOTICE OF VIOLATION

Shannon and Wilson, Inc.
St. Louis, Missouri

Docket No. 030-37136
License No. 24-18839-02
EA-10-163

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on August 4, 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, 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 are not under the control and constant surveillance of the licensee. Specifically:

1. As of August 4, 2010, the licensee transported a portable gauge at a temporary job site in an open bed pick-up truck with one lock and one chain through each handle of the portable gauge case and only one lock securing the gauge case lid when the gauge was not under the control and constant surveillance of the licensee;
2. As of August 4, 2010, the licensee had stored the portable gauge in a locked cabinet in a room in the facility and only one lock secured the door when the gauge was not under the control and constant surveillance of the licensee. The storage room was at the rear of the facility and there was not always someone at the reception desk or in the immediate area; and
3. As of August 4, 2010, the licensee had stored a portable gauge in a locked metal cabinet in a shed at a temporary job site with only one lock securing the metal cabinet when the gauge was not under the control and constant surveillance of the licensee.

This is a Severity Level III violation (Supplement 6.3).

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 No. 030-37136/2010-001(DNMS), and in your response letter dated October 5, 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-10-163," 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,

ENCLOSURE

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 <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 2nd day of November 2010