



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
2100 RENAISSANCE BOULEVARD, SUITE 100
KING OF PRUSSIA, PENNSYLVANIA 19406-2713

March 25, 2013

EA-13-017

Jack Savage
President
Savage Construction Co., Inc.
196 Peters Run Road
Wheeling, WV 26003

SUBJECT: SAVAGE CONSTRUCTION CO., NOTICE OF VIOLATION AND LICENSE
TERMINATION – NRC INSPECTION REPORT NO. 03029427/2012001

Dear Mr. Savage:

This letter provides you the U.S. Nuclear Regulatory Commission (NRC) enforcement decision for the apparent violations identified during the NRC inspection conducted on October 19, 2012, at Savage Construction Company, Inc. (SCCI) in Wheeling, West Virginia, and subsequent in-office follow-up that was completed on January 31, 2013. Both the onsite inspection and the office review evaluated your licensed activities within NRC jurisdiction as they relate to radiation safety and to compliance with NRC regulations. The NRC discussed its findings during a telephonic exit with Mr. Tim Cunningham, of your organization on January 31, 2013. The findings were also described in the NRC inspection report (ML13050A548¹) sent to you with a letter (ML13050A522) dated February 15, 2013.

In the February 15, 2013, letter transmitting the inspection report, we provided you with the opportunity to address the apparent violations identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter (ML13066A715) dated February 28, 2013, you provided a response to the apparent violations.

Based on the information developed during the inspection and the information that you provided in your response, the NRC has determined that four violations of NRC requirements occurred. The violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in Inspection Report No. 03029427/2012001, issued on February 15, 2013.

¹ Designation in parentheses refers to an Agencywide Documents Access and Management System (ADAMS) accession number. Documents referenced in this letter are publicly-available using the accession number in ADAMS.

The most significant violation involved multiple instances between 2011 and October 19, 2012, where SCCI failed to maintain two independent controls to form a tangible barrier to secure its portable nuclear gauges from unauthorized removal whenever the gauges were not under SCCI's control and constant surveillance. Specifically, during the inspection on October 19, 2012, the inspector identified that SCCI stored its gauges inside an unlocked storage box in the garage of your Wheeling, West Virginia office building. Although building entrances, including the garage door, were controlled at all times (providing one barrier), a lock was not used on the storage box to provide a second barrier, as required by 10 CFR 30.34(i).

Although the portable gauges were not removed or stolen, there was a potential that unauthorized individuals could have removed them from the building by removing only one security barrier. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level (SL) III.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3,500 is considered for a SL III violation. Because your facility has not been the subject of escalated enforcement action within the last two years or two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. The NRC has concluded that credit is warranted for SCCI's corrective actions taken to address the violation. Specifically SCCI: (1) immediately locked the gauges in a storage cabinet to provide a second independent physical control and (2) subsequently transferred the gauges to an authorized recipient. Furthermore, you requested, in a letter dated November 13, 2012, termination of the SCCI NRC license, and in accordance with the requirements of 10 CFR 30.36 an amendment to your license is attached that terminates License No. 47-24859-01 (All facilities previously used for licensed activities may be released for unrestricted use). Therefore, in recognition of the absence of previous escalated enforcement action, your corrective actions, and in consideration of the fact that your license is being terminated by this letter, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case.

Three additional violations, also documented in the Notice, have been categorized in accordance with the NRC Enforcement Policy at SL IV. These violations are being cited because they were identified by the NRC. The circumstances surrounding these violations are documented in detail in the above-referenced inspection report. The NRC has concluded that information regarding: 1) the reason for the violations; 2) the actions planned or already taken to correct the violations and prevent recurrence; and, 3) the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 03029427/2012001, in SCCI's February 28, 2013, letter, and in this letter. In addition, as mentioned above, your license is being terminated. 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. Further, if you seek to obtain an NRC license in the future, a response to this Notice may be required prior to NRC issuance of another license.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response, if

you choose to provide one, should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld, and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Sincerely,

A handwritten signature in black ink, appearing to read 'W M Dean', with a long horizontal flourish extending to the right.

William M. Dean
Regional Administrator

Docket No.03029427
License No. 47-24859-01

Enclosures:

1. Notice of Violation
2. Amendment No. 08 Terminating License No. 47-24859-01

cc:
T. Cunningham, Radiation Safety Officer
State of West Virginia

J. Savage

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you choose to provide one, should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld, and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Sincerely,

/RA/

William M. Dean
Regional Administrator

Docket No. 03029427
License No. 47-24859-01

Enclosures:

1. Notice of Violation
2. Amendment No. 08 Terminating License No. 47-24859-01

cc:

T. Cunningham, Radiation Safety Officer
State of West Virginia

Distribution: see next page

SUNSI Review Complete: CJC (Reviewer's Initials)

DOCUMENT NAME: S:\Enf-allg\Enforcement\Proposed-Actions\Region1\Savage Construction SLIII NOV EA-13-017.docx

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DATE	03/20/13		03/25/2013							

*HQ to perform a quick review. ** See previous concurrence page

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Savage Construction Company
Wheeling, West Virginia

Docket No. 03029427
License No. 47-24859-01
EA-13-017

During an NRC inspection conducted between October 19, 2012 and January 31, 2013, for which an exit meeting was conducted on January 31, 2013, four violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 30.34(i) requires that each portable gauge licensee shall use a minimum of two independent 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 multiple occasions prior to October 19, 2012, Savage Construction Co., Inc. (SCCI) failed to maintain two independent controls to form a tangible barrier to secure its portable gauges from unauthorized removal. Specifically, when SCCI's two portable gauges were not under control and constant surveillance, SCCI stored the gauges in a locked garage that only provided one control, but the locked container (where the gauges were stored) inside the garage was not secured to provide a second independent control.

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

- B. 10 CFR 20.1101(c) requires that a licensee shall periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, for calendar years 2009-2012, SCCI did not perform a review of the radiation protection program content and implementation.

This is a Severity Level IV violation (Section 6.3).

- C. License Condition 15 of NRC License No. 47-24859-01, requires, in part, that the licensee conduct a physical inventory every six months to account for all sources or devices received and possessed, and that records of such inventories be maintained for five years from the date of each inventory and shall include the radionuclides quantities, manufacturer's name and model number, and the date of the inventory.

Contrary to the above, for five years prior to October 19, 2012, SCCI did not conduct any physical inventories to account for the two portable nuclear density gauges in its possession.

This is a Severity Level IV violation (Section 6.3).

- D. Condition 19 of NRC License No. 47-24859-01 requires, in part, that the licensee conduct its program in accordance with statements, representations, and procedures

Enclosure

contained in the application dated October 13, 2011. Item 10 of Appendix B to the licensee's letter dated October 13, 2011, requires that the licensee develop, implement and maintain Operating and Emergency procedures that will meet the criteria in the

section, entitled "Radiation Safety Program-Operating and Emergency Procedures," in NUREG 1556, Vol. 1, dated May 1997. This requires, in part, that a gauge be signed out in a log book, including the dates of use, names of authorized users who will be responsible for the gauge, and the temporary job site where the gauge will be used.

Contrary to the above, as of October 19, 2012, SCCI failed to conduct its program in accordance with statements, representations, and procedures contained in the application dated October 13, 2011. Specifically, SCCI did not maintain a log book that included the dates of use of its licensed gauges, names of authorized users responsible for the gauges, and the temporary job sites where the gauges were to be used.

This is a Severity level IV violation (Section 6.3).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 03029427/2012001; in SCCI's February 28, 2013, letter, and in the letter transmitting this Notice. Therefore, you are not required to respond to this Notice. 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-13-017", and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region I, 2100 Renaissance Boulevard, Suite 100, King of Prussia, PA 19406, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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 document 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 25th day of March 2013

Enclosure

MATERIALS LICENSE

Licensee

1. Savage Construction Co., Inc.

3. License number 47-24859-01

2. 196 Peters Run Road
Wheeling, West Virginia 26003-7833

4. Expiration date Not Applicable

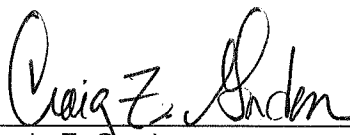
5. Docket No. 030-29427
Reference No.

In accordance with the NRC Form 314 received December 5, 2012, this license is hereby terminated.

For the U.S. Nuclear Regulatory Commission

Date March 25, 2013

By

Craig Z. Gordon
Materials Security and Industrial Branch
Division of Nuclear Materials Safety
Region I
King of Prussia, Pennsylvania 19406

Monday, March 25, 2013 13:29:12