

July 1, 2016

EA-16-098

Mr. Shawn Hellers, P.E.
Project Manager
7NT Enterprises, LLC
531 E. Third Street
Dayton, OH 45402

SUBJECT: NOTICE OF VIOLATION – 7NT ENTERPRISES, LLC; NRC ROUTINE
INSPECTION REPORT NO. 03038799/2016001(DNMS)

Dear Mr. Hellers:

This letter refers to the U.S. Nuclear Regulatory Commission (NRC) inspection conducted on March 22, 2016, at your Indianapolis, Indiana facility, with continued in-office review through April 13, 2016. The purpose of the inspection was to review activities performed under your NRC license to ensure that those activities were being performed in accordance with NRC requirements. During the inspection an apparent violation of NRC requirements was identified. The circumstances surrounding this apparent violation, the significance of the issue, and the need for lasting and effective corrective action were discussed with Mr. Eoghan Gregory of your staff on April 18, 2016. Details regarding the apparent violation were provided in NRC Inspection Report No. 03038799/2016001(DNMS), dated May 9, 2016. The inspection report can be found in the NRC's Agencywide Documents Access and Management System (ADAMS) at Accession Number ML16130A539. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation identified in the report by: (1) providing a written response; (2) requesting a predecisional enforcement conference, or (3) providing no further response. On June 14, 2016, Mr. Gregory informed our staff that you would not be providing a response and confirmed agreement with the facts surrounding the apparent violation as described in the subject inspection report.

Based on the information developed during the inspection, 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 your staff's failure 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 as required by Title 10 of the *Code of Federal Regulations* (CFR) 30.34(i). Specifically, on multiple occasions and most recently on March 22, 2016,

your staff used only one physical control that formed a tangible barrier, a single chain with a lock, to secure the gauge case to the bed of an open-bed truck while leaving the vehicle unattended.

The root cause of the violation was the lack of knowledge of NRC regulatory requirements. You believed that the gauges were properly secured because two barriers were provided to prevent removal of gauges from their cases. However, you had not considered that it provided only a single barrier to remove the gauges in their cases from the vehicle. The failure to use two independent physical barriers to properly secure nuclear gauges is of significance to the NRC because of the potential for unauthorized individuals to gain control of the radioactive material and misuse it. Therefore, this violation has been categorized, in accordance with the NRC Enforcement Policy, at Severity Level III.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$3,500 is considered for a Severity Level III violation.

Because your facility has not been the subject of escalated enforcement actions within the last two years or the last 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 determined that credit was warranted for *Corrective Action*. Specifically, the Radiation Safety Officer (RSO) contacted each gauge user by telephone the day of the onsite inspection to instruct them to add a second chain and lock to secure the case inside the truck bed. In addition, he held a formal training session on March 28, 2016, to emphasize the requirements, and updated the training manual to include the correct technique to secure the gauges while in transport. By email dated April 8, 2016, the RSO provided NRC inspectors documentation that the corrective actions described above had been completed.

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: (1) the reason for the violation; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in the subject inspection report. Therefore, you are not required to respond to the Notice enclosed with 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.

S. Hellers

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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 and in ADAMS. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,

/RA/

Cynthia D. Pederson
Regional Administrator

Docket No: 030-38799
License No: 34-35203-01

Enclosure:
Notice of Violation

cc: Mr. Gregory, Radiation Safety Officer
State of Indiana
State of Ohio

NOTICE OF VIOLATION

7NT Enterprises, LLC
Indianapolis, Indiana

License No. 34-35203-01
Docket No. 030-38799
EA-16-098

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on March 22, 2016, at your Indianapolis, Indiana facility, with continued in-office review through April 13, 2016, 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* (CFR) 30.34(i) requires, in part, that each portable gauge licensee shall 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 multiple occasions, and most recently on March 22, 2016, the licensee failed to use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever the gauges were not under the control and constant surveillance of the licensee. Specifically, the licensee's staff used only one physical control, a single chain with a lock, to secure gauges in their cases to the bed of an open-bed truck while leaving the vehicle unattended.

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

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken to correct the violation and to prevent recurrence, and the date when full compliance will be achieved, is already adequately addressed on the docket in Inspection Report No. 03038799/2016001(DNMS). 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-16-098" 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 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, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

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

Enclosure

<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 2 working days of receipt.

Dated this 1st day of July, 2016.

S. Hellers

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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 and in ADAMS. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,

/RA/

Cynthia D. Pederson
Regional Administrator

Docket No: 030-38799
License No: 34-35203-01

Enclosure:
Notice of Violation

cc: Mr. Gregory, Radiation Safety Officer
State of Indiana
State of Ohio

DISTRIBUTION:

See next page

Document Name: EA-16-098 7NT Enterprises Final Action.docx

OFFICE	RIII		RIII		RIII		D:OE	
NAME	M. Gryglak		McCraw		Giessner		Holahan ¹	
DATE	06/21/16		06/22/16		06/22/16		07/01/16	
OFFICE	RIII		RIII				RIII	
NAME	Skokowski KJL for		Pederson					
DATE	07/01/16		07/01/16					

OFFICIAL RECORD COPY

¹ OE concurrence provided via e-mail from Kerstun Norman on July 1, 2016

Letter to Mr. Shawn Hellers from Ms. Cynthia D. Pederson dated July 1, 2016

SUBJECT: NOTICE OF VIOLATION – 7NT ENTERPRISES, LLC;
NRC ROUTINE INSPECTION REPORT NO. 03038799/2016001(DNMS)

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