



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE RD. SUITE 210
LISLE, IL 60532-4352

December 21, 2017

EA-17-157

Mr. Dibakar Sundi, P.E.
President
K & S Engineers, Inc.
9715 Kennedy Avenue
Highland, IN 46322

SUBJECT: NOTICE OF VIOLATION; NRC ROUTINE INSPECTION REPORT
NO. 03028612/2017002(DNMS) – K & S ENGINEERS, INC.

Dear Mr. Sundi:

This letter refers to the inspection conducted on July 25, 2017, at your Beech Grove, Indiana office with continued in-office review through September 14, 2017. The purpose of the inspection was to review activities performed under your NRC license to ensure that activities were being performed in accordance with NRC requirements. During the inspection, an apparent violation of NRC requirements was identified. The circumstances surrounding the apparent violation, the significance of the issue and the need for lasting and effective corrective actions were discussed with you during the exit meeting on September 14, 2017. Details regarding the apparent violation were provided in NRC Inspection Report No. 03028612/2017002(DNMS) dated October 2, 2017. The inspection report can be found in the NRC's Agencywide Documents Access and Management System (ADAMS) at Accession Number ML17275A197. 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 either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter dated November 17, 2017 (ML17331A496), you provided a response to the apparent violation.

Based on the information developed during the inspection and the information that you provided in your response to the inspection report dated November 17, 2017, 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 failure to secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas or to use a minimum of two independent physical controls that form tangible barriers to secure a portable gauge from unauthorized removal whenever the gauge was not under the licensee's control and constant surveillance, as required by Title 10 of the *Code of Federal Regulations* (CFR) 20.1801 and 10 CFR 30.34(i). The root cause of the violation was the failure to provide adequate oversight to the radiation safety program at the Beech Grove office.

The failure to properly secure portable moisture/density gauges is of significant concern to the NRC because of the potential for unauthorized individuals to gain control of the radioactive material and misuse it, which could result in an unintended exposure to a member of the public.

Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level (SL) III. In accordance with the Enforcement Policy, a base civil penalty in the amount of \$7,000 is considered for a SL 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 in Section 2.3.4 of the Enforcement Policy. Immediate corrective action included obtaining additional chains and padlocks to secure the gauge within the storage room. Additional corrective actions include: (1) removing all the portable moisture density gauges from the Beech Grove office until the oversight of the radiation safety program is improved; (2) appointing an assistant radiation safety officer (RSO) for the Beech Grove office; (3) establishing a site-specific radiation safety program for the Beech Grove office; and (4) requiring the new assistant RSO to perform monthly audits of the radiation safety program and send them to the RSO for review. Based on the corrective actions discussed above, credit for *Corrective Action* is 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 also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

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 will be achieved is already adequately addressed on the docket in Inspection Report No. 03028612/2017002(DNMS) and your letter dated November 17, 2017. 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 any, will be made available electronically for public inspection in the NRC Public Document Room and in 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>. To the extent possible, your response 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

D. Sundi

- 3 -

required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

Sincerely,

/RA/

Cynthia D. Pederson
Regional Administrator

Docket No. 030-28612
License No. 13-24480-01

Enclosure:
Notice of Violation

cc: State of Indiana

Letter to Mr. Dibakar Sundi from Cynthia D. Pederson dated December 21, 2017

SUBJECT: NOTICE OF VIOLATION; NRC ROUTINE INSPECTION REPORT
NO. 03028612/2017002(DNMS) – K & S ENGINEERS, INC.

DISTRIBUTION:

RidsSecyMailCenter
 OCADistribution
 Victor McCree
 Frederick Brown
 Anne Boland
 Francis Peduzzi
 Juan Peralta
 Eric Ruesch
 Cynthia Pederson
 Kenneth O'Brien
 Dan Dorman
 Catherine Haney
 Kriss Kennedy
 Edward Williamson
 Mauri Lemoncelli
 Marc Dapas
 Daniel Collins
 Michele Burgess
 Robert Sun
 Sophie Holiday
 Brice Bickett
 Mark Kowal

Michael Hay
 Richard Skokowski
 Holly Harrington
 Hubert Bell
 Kimberly Howell
 Meghan Blair
 Jeremy Bowen
 John Giessner
 Christine Lipa
 Aaron McCraw
 MIB Inspectors
 Allan Barker
 Harral Logaras
 James Lynch
 Viktoria Mitlyng
 Prema Chandrathil
 Kenneth Lambert
 Paul Pelke
 Sarah Bakhsh
 Erin Kennedy
 RidsOemailCenter Resource
 OEWEB Resource

ADAMS Accession No.: ML17356A281

OFC	RIII/EICS	RIII/MIB	RIII/DNMS	RIII-EICS	RIII/ORA
NAME	KLambert:jc	AMcCraw	JGiessner	RSkokowski KJL for	CPederson
DATE	12/13/17	12/15/17	12/15/17	12/21/17	12/21/17

NOTICE OF VIOLATION

K & S Engineers, Inc.
Highland, Indiana

Docket No. 030-28612
License No. 13-24480-01
EA-17-157

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on July 25, 2017, with continued in-office review until September 14, 2017, 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) 20.1801 requires that the licensee secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas.

Title 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 several occasions, including July 25, 2017, the licensee failed to secure from unauthorized removal or access a portable gauge that was stored in a controlled area, and the licensee failed to use a minimum of two independent physical controls that form tangible barriers to secure the gauge from unauthorized removal when the gauge was not under the control and constant surveillance of the licensee. Specifically, the licensee stored a portable gauge in an unlocked storage room with one lock securing the gauge case lid and a single chain with one lock securing one handle on the gauge case to a workbench. The keys to the padlock on the gauge case and the padlock on the single chain were located on the workbench approximately one foot away from the gauge and there were no individuals continuously present to maintain control or constant surveillance.

This is a Severity Level III violation (Section 6.3 and 6.7).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 03028612/2017002(DNMS) and the licensee's letter dated November 17, 2017. 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-17-157," 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

Enclosure

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 21st day of December 2017.