



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

C. files

July 12, 1979

Twin City Testing and
Engineering Laboratory, Inc.
ATTN: Norman E. Henning, PE
President
662 Cromwell Avenue
St. Paul, MN 55114

License No. 22-01376-02

Gentlemen:

This is in response to your letter dated March 20, 1979, in response to the Notice of Violation and Notice of Proposed Imposition of Civil Penalties sent to you in our letter dated March 2, 1979. The March 2, 1979 letter concerned apparent items of noncompliance found during an inspection conducted on November 21 and 22, 1978, regarding the overexposure of a radiographer at a temporary job location in Wheatland, Wyoming, on November 15, 1978.

Your letter agrees that Items 1 and 2 of the Notice of Violation are correct as stated. Your clarification of Item 3 is correct. Item 3 was intended to address only four examples of items of noncompliance (two for each of the persons involved) as described in paragraph five of our inspection report.

In your view the cause of this incident, as indicated in your response to the Notice of Violation, was that the radiographer was in error in not performing a complete survey, that the survey made was hasty and inadequate, and the accident did not occur because of willful negligence on the part of management but rather human error. Nevertheless, the Licensee is responsible for the failure involved because the Licensee is responsible for the acts of both the management and employees.

Incidents such as that which occurred here do not just happen, they are caused by the failure to follow procedures. They are preventable by following such procedures, and as you recognize "vigilant scrutiny" is required. This is especially true where radiographers are performing work at field sites without direct supervision. In this case, it is apparent that the Company's procedures, in effect, were not adequate to assure compliance with each of the requirements at issue. The corrective action described in your letter indicated a number of steps to be taken both by supervisors and employees to avoid recurrence.

The corrective action you have taken, including the additional surveillance by branch managers, the certainty of disciplinary action for employees, monetary awards for lower personnel exposure, purchase of personnel alarming devices, and assuring that the second man on the crew checks the actions of the operator to assure adequate surveys, indicates an apparent commitment on the part of management toward safe operation. As you are probably aware, a possible

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negative effort that could occur, if your proposal for monetary awards for lower personnel exposures is implemented, is failure by your employees to use monitoring devices in order to demonstrate low exposure records. Measures should be taken to assure that personnel monitoring devices are worn at all appropriate times.

In the interest of understanding your statement concerning the certainty of disciplinary action, we would like you to clarify your policy as it relates to reinstating employees who violate safety requirements. Specifically, what factors are considered in such reinstatements.

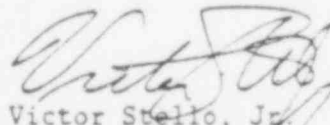
If properly implemented, the corrective actions described in your March 20 letter, together with a positive attitude toward safety, should contribute to reducing the possibility of future items of noncompliance involving overexposures.

In respect to your corrective action, you should request the NRC Office of Nuclear Material Safety and Safeguards to amend the procedures incorporated in your license in order to reflect these changes in your program. Please notify us immediately if you do not intend to do so.

Accordingly, under the circumstances of this case, we have mitigated the civil penalty for Item 1 from \$2,500 to \$1,500 and the penalty for Item 2 from \$2,000 to \$1,000. Item 1 and Item 2 remain separate items of noncompliance as each of these items involve separate regulatory requirements. An order is enclosed imposing civil penalties in the amount of \$2,500.

We will review implementation of your corrective actions during subsequent inspections. If implementation of these procedures is not successful in assuring compliance with regulatory requirements, consideration will be given to further escalated enforcement action such as additional civil penalties or the issuance of orders to suspend, modify, or revoke the license.

Sincerely,



Victor Stello, Jr.
Director
Office of Inspection
and Enforcement

Enclosures:
(See next page)

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Twin City Testing and
Engineering Laboratory, Inc.

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Enclosure:
Order Imposing Civil
Monetary Penalties

44-309

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
Twin City Testing and)	Byproduct Material
Engineering Laboratory, Inc.)	License No. 22-01376-02
662 Cromwell Avenue)	
St. Paul, MN 55114)	

ORDER IMPOSING CIVIL MONETARY PENALTIES

I

Twin City Testing and Engineering Laboratory, Inc., 662 Cromwell Avenue, St. Paul, Minnesota, (the "licensee"), is the holder of Byproduct Material License No. 22-01376-02 (the "license"), issued by the Nuclear Regulatory Commission ("the Commission"), which authorizes the licensee to use sealed sources of byproduct material to calibrate survey instruments and conduct industrial radiography at temporary job sites in accordance with conditions specified therein. The license was issued on January 28, 1958, and has been renewed periodically since. The license had an expiration date of November 30, 1978, but continues in effect because of a timely application for renewal.

II

An investigation of the licensee's activities under the license was conducted on November 21 and 22, 1978. As a result of this investigation, it appears that the licensee has not conducted its activities in full compliance with the requirements of the license and with the requirements of the NRC's Title 10, Code of Federal Regulations, Part 20, "Standards for Protection Against Radiation;" and Part 34, "Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations." A written Notice of Violation was served upon the licensee by letter dated March 2, 1979, specifying the items of noncompliance, in accordance with 10 CFR 2.201. A Notice of Proposed Imposition of

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Civil Penalties in the amount of Four Thousand Five Hundred Dollars (\$4,500) dated March 2, 1979, was served concurrently upon the licensee in accordance with Section 234 of the Atomic Energy Act of 1954, as amended, (42 USC 2282), and 10 CFR 2.205, incorporating by reference the Notice of Violation, which stated the nature of the items of noncompliance and the provisions of the NRC regulations with which the licensee was in noncompliance. An answer, dated March 20, 1979, to the Notice of Violation, and to the Notice of Proposed Imposition of Civil Penalties was received from Twin City Testing and Engineering Laboratory, Inc.

III

Upon consideration of the answers received and the statements of fact, explanation, and argument in denial or mitigation contained therein, the Acting Director of the Office of Inspection and Enforcement has determined that the penalty proposed for the item of noncompliance designated in the Notice of Violation as Item 1 be mitigated from Two Thousand Five Hundred Dollars (\$2,500) to One Thousand Five Hundred Dollars (\$1,500), and the penalty for the item of noncompliance designated as Item 2 be mitigated from Two Thousand Dollars (\$2,000) to One Thousand Dollars (\$1,000).

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended, (42 USC 2282), and 10 CFR 2.205, IT IS HEREBY ORDERED THAT:

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The licensee pay civil penalties in the total amount of Two Thousand Five Hundred Dollars (\$2,500). The penalties may be paid by check, draft, or money order payable to the Treasurer of the United States and mailed to the Acting Director of the Office of Inspection and Enforcement. Payment shall be due and payable within twenty (20) days of the date of receipt of this Order.

V

The licensee may, within twenty (20) days of the receipt of this Order, request a hearing. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within twenty (20) days of the date of receipt of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

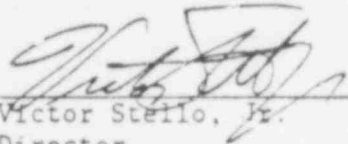
VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

- (a) whether the licensee was in noncompliance with the Commission's regulations in the respects set forth in the Notice of Violation;
- and

(b) whether, on the basis of such items of noncompliance the Order should be sustained.

FOR THE NUCLEAR REGULATORY COMMISSION



Victor Stello, Jr.
Director
Office of Inspection
and Enforcement

Dated At Bethesda, Maryland
this 12th day of July, 1979

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