

DCS

October 22, 1990

Docket No. 030-10963
License No. 20-16401-01
EA 89-221

Briggs Associates, Inc.
ATTN: David Campbell
President
400 Hingham Street
Rockland, Massachusetts 02370

Gentlemen:

SUBJECT: NOTICE OF VIOLATION (NRC INSPECTION REPORT NO. 88-001 AND
NRC OFFICE OF INVESTIGATIONS REPORT NO. 1-88-002)

This refers to the NRC safety inspection conducted on January 21-22, 1988 of activities authorized by NRC License No. 20-16401-01. This also refers to the subsequent investigation conducted by the NRC Office of Investigations (OI). During the inspection and investigation, violations of NRC requirements and significant regulatory concerns were identified. The report of the inspection, as well as a redacted synopsis of the OI investigation, was forwarded to you on November 21, 1989. On December 1, 1989, an enforcement conference was held with you and a member of your staff during which we discussed the violations and a regulatory concern involving an inaccurate statement in the attachment to your October 1, 1987 letter, further described below.

Subsequently, on May 11, 1990, the unedited synopsis of the OI investigation was forwarded to you. The unedited version described a second regulatory concern, which involves the falsification by your staff of employment certification statements, (i.e., "good guy letters") sent to the Indian Point 2 Nuclear facility (IP2) in Buchanan, New York. These letters resulted in IP2 allowing two of your employees and one contracted employee to gain access to that facility because the letters stated that these individuals had three years of experience with your company when, in fact, they did not have such experience. On May 22, 1990, a second, transcribed enforcement conference was held with Mr. Joel Chase, Vice President and Mr. Paul Skorohod, Vice President/Radiation Safety Officer (VP/RSO), to discuss this additional concern, as well as the matters previously discussed in the December 1989 conference.

OI concluded that your Vice President acted with careless disregard in written responses to the NRC during the 1987 license renewal process concerning the requirement to have a functioning visible and audible alarm system for your permanent radiography cell. Specifically, in the enclosure to your letter dated October 1, 1987 concerning the status of those alarms, you stated, "The audible and visual alarms which are being utilized are shown on the attached drawing." A subsequent inspection, conducted January 21 - 22, 1988, showed that the audible alarm was not installed and the visible alarm was only used

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intermittently. Furthermore, in a March 19, 1987 letter responding to a February 17, 1987 Notice of Violation, you indicated that you intended to install these alarms, and that you expected to have them installed by April 15th. Moreover, your October 1, 1987 letter was written in response to NRC's letter of August 14, 1987, which quoted the pertinent commitment in your March 19, 1987 letter.

Your VP/RSO maintains that, in making the statement on the enclosure to the October 1, 1987 letter, he meant to imply that audible and visible alarms would be used after the permanent radiographic cell was approved by the issuance of your license renewal and specifically listed as an authorized place of use on that license. At the December 1, 1989 enforcement conference, your VP/RSO also stated that, before the alarms were installed, all of the safety procedures required for performing radiography at temporary job sites were utilized whenever radiography was performed in the cell. The alarms were eventually installed in January 1988 and the license renewal, issued May 1988, does specifically indicate that the cell is a permanent radiographic installation. 10 CFR 34.29(b) requires that each entrance that is used for personnel access to the high radiation area in a permanent radiographic installation have both visible and audible warning signals to warn of the presence of radiation. Therefore, this issue is now resolved and, after consultation with the Commission, we do not intend to take enforcement action for it. Nevertheless, the providing of inaccurate or incomplete information to the NRC is a serious matter.

NRC is also concerned about the falsification of the "good guy letters" submitted to Indian Point 2 (IP2) by your staff. During the investigation, OI found that your former Manager of the Non-Destructive Examination (NDE) Division willfully prepared two false employee access certification letters in order to facilitate the unescorted access for three employees to the IP2 nuclear power plant. Further, the VP/RSO, in careless disregard of the facts, signed and submitted the false employee access certification letters to Consolidated Edison Company for the three employees. The certification letters were submitted by the VP/RSO as part of the contractor background screening process required by the IP2 NRC-approved Physical Security Plan. As stated previously, these certification letters, which asserted that the three individuals had been continuously employed by Briggs Associates for three or more years, resulted in IP2 waiving the requirement for a background investigation of the individuals, and giving the individuals unescorted access to the plant. None of the individuals had been employed by Briggs Associates for three years, and in fact, one of the individuals had been hired by Briggs only days before the certification letters were submitted to IP2.

A license to use radioactive material is a privilege that confers upon the licensee, and its officials and employees, the special trust and confidence of the public. When the NRC issues a license, it is expected and required that the licensee, as well as its employees and contractors, be completely candid and honest in all of their dealings with the NRC and insure that any submittal of written or oral information involving NRC-licensed activities is complete and accurate. This trust and confidence has been significantly degraded by 1) the failure to install the alarms in your radiography cell by April 1987, as stated in your March 1987 letter, 2) the subsequent submittal of the inaccurate information by the VP/RSO in the enclosure to your letter dated October 1, 1987,

3) the preparation of false employee access certification letters by your former NDE Manager, and 4) the subsequent submittal of the false letters to IP2 by the VP/RSO. Further, you should be aware that, if the NDE Manager had still been employed at your facility, NRC would have considered the issuance of an Order to prohibit that individual from any further involvement in NRC-licensed activities.

The NRC regulatory framework requires reasonable assurance that licensees will maintain and provide complete and accurate information concerning licensed activities. In this and other regards, licensees are held responsible for the acts of their employees at all levels. On February 1, 1988, 10 CFR 30.9, "Completeness and Accuracy of Information," became effective. This regulation codifies the requirement that information provided to the Commission by a licensee and NRC-required records be complete and accurate in all material respects. Therefore, you should recognize, and so inform your employees, that any similar occurrence may result in significant enforcement action, including civil penalties and actions affecting individuals, as well as modification, suspension, or revocation of your license.

The violations that NRC identified during the subject inspection are set forth in the enclosed Notice of Violation (Notice). These violations have been classified at Severity Level IV and V in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), 10 CFR Part 2, Appendix C (1988).

You are required to respond to this letter and the enclosed Notice and, in preparing your response, you should follow the instructions specified in the Notice. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. In addition, your response to this letter should describe the changes that have been made and actions that have been or will be implemented to ensure that (1) licensed activities are conducted in accordance with the license, and (2) records of licensed activities, as well as information submitted to the NRC, are complete and accurate. This response should also provide your basis for concluding that each person involved in licensed activities understands his or her responsibility to the NRC and is committed to assuring that NRC requirements will be followed and that records and information involving NRC-licensed activities will be complete and accurate.

After reviewing your response to this Notice, including your proposed corrective actions, and the results of future inspection, the NRC will determine whether further enforcement action is necessary to ensure compliance with NRC regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," Part 2 Title 10, Code of Federal Regulations, a copy of this letter and the enclosure will be placed in the NRC's Public Document Room.

The responses directed by this letter and the enclosure are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, Pub. L. No. 96-511.

Sincerely,
Original Signed By:
Thomas T. Martin

Thomas T. Martin
Regional Administrator

Enclosure:
Notice of Violation

cc w/encls:
Public Document Room (PDR)
Nuclear Safety Information Center (NSIC)
Commonwealth of Massachusetts
Consolidated Edison Company

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EB on 10/18/90 djm