

# KCE STRUCTURAL ENGINEERS, P.C.

CONSULTING ENGINEERS • 1818 JEFFERSON PLACE, N.W. • WASHINGTON, D.C. 20036 • 202-833-8622

December 6, 1993

Nuclear Regulatory Commission  
Region 1  
475 Allendale Road  
King of Prussia, Pennsylvania 19406-1415

Attn: Charles W. Hehl  
Director of Radiation Safety  
and Safeguards

Re: KCE Structural Engineers, PC  
Confirmatory Action Letter No. 1-93-022  
Docket #930-33019  
License #08-30006-01  
Calibration # 1-93-022

We are in receipt of your confirmatory action letter #1-93-022 dated November 30, 1993.

Notwithstanding the first portion of your letter, we would like to respond to the specific listed directions:

1. "By December 7, 1993, you will submit an amendment requesting a change in the RSO to the NRC when the RSO has completed the manufacturer's training course and not perform work using your portable moisture density gauge under the conditions of Item 11.A of your license."

In fact, we have chosen to delay the selection of a change of the RSO and therefore his subsequent completion of the manufacturer's training course.

We have done this to allow the pressures of repeated and numerous contacts from NRC to be relieved and for me to personally, completely understand the rules and regulations and our obligations thereunder.

In the interim, no one in KCE's employment is using the portable moisture density gauge for any purpose. (See hereinafter for transfer and transferee information)

We in fact, have, with the agreement of Steve Courtemanche and as directed by Dr. Pasiak, "transferred" our device to Ambric Testing & Engineering Associates of VA., Inc. under their license number 45-15234-02. Prior to this transfer, the device was first registered with the Maryland Department of The Environment (even though the device temporary site is Federal Land).



9403010122 940218  
PDR ADOCK 03033019  
C PDR



PROFESSIONAL REGISTRATIONS: COLORADO, CONNECTICUT, DELAWARE, DISTRICT OF COLUMBIA, FLORIDA, GEORGIA, ILLINOIS, LOUISIANA, MARYLAND, MASSACHUSETTS, MISSOURI, N.C.E.E., NEW JERSEY, NEW YORK, NORTH CAROLINA, OHIO, PENNSYLVANIA, RHODE ISLAND, SOUTH CAROLINA, TENNESSEE, VIRGINIA, WEST VIRGINIA, WISCONSIN

DEC 13 1993

The device also underwent another successful leak test, performed by Mr. Sergio Eretescu of Ambric Testing & Engineering Associates of VA., Inc. on December 2, 1993.

2. "You will not perform work using your portable moisture density gauge under the conditions of Item 11.A of your license."

Please see our response to item number one above. We have transferred the device to Ambric Testing & Engineering Associates of VA., Inc.

3. "If your gauge is to be used by another licensed company, you will transfer the gauge to that licensed company and they will assume possession of it for the period of use. Use transport and storage of the gauge will be done by that licensed company. Unless such a transfer is made, you will keep the gauge locked at your office facilities until the conditions of this Confirmatory Action Letter are met and our office approves resumed use of the gauge."

See response to (1) above. Note when the work that requires the portable density testing device at NASA is completed, the device will be returned to this office, locked at our office until NRC approves the resumed use of the gauge and RSO.

4. "By December 27, 1993, you will inform the NRC in writing of all of the information required by 10 CFR 20.402(b) concerning the theft of the gauge that occurred on November 25, 1993."

In accordance with paragraph 20.402(b) of Part 20, Standards for protection against radiation, we reconfirm the information already in your possession regarding the theft of the portable moisture density gauge which occurred in the evening of Thanksgiving, November 25, 1993, (essentially as you outlined in the 2nd paragraph of your letter, that is to say:

On Thursday, November 18, 1993 your Dr. Pasiak advised the writer that we could no longer use the portable moisture density testing device (Device) until our user had completed the manufacturer's course, next given on December 2, 1993.

On that date KCE and Mr. Emilio Rouco stopped using the Device.

Dr. Pasiak advised later that day, that we could transfer the Device to another licensed operator.

On Monday November 22, 1993, we arranged with Ambric Testing & Engineering Associates of VA., Inc. to have their licensed technician come to the temporary Device job site (NASA EOSDIS) to use our Device which had been stored under lock and key at the job site trailer (the device further locked with the mandated double padlock system).

On Wednesday November 24, 1993 the writer advised Mr. Rouco (our employee) that the Device should not remain at the job site trailer over the long Thanksgiving weekend.

Mr. Rouco asked if Ambric could transport the Device to their facility.

In order to try to control the location of the Device, the writer advised Mr. Rouco that Ambric could not transport the Device, and that he, Mr. Rouco, should bring the Device to KCE's locked, equipment room.

Mr. Rouco choose to transport the Device on Thanksgiving evening, Thursday November 25, 1993. He parked his locked, Toyota truck on the street directly in front of our office at 1818 Jefferson Place, the street being vacant of other vehicles.

Mr. Rouco came into the office to pick up some paperwork and stayed for approximately one hour. He returned to his truck and proceeded to his home.

Later than evening (3:00 a.m. Friday November 25, 1993) he went to his truck to return to the office to place the Device in KCE's office.

When he approached his truck outside his home, he realized the Device was missing.

The writer, who was out of town for the Thanksgiving holiday, was reached at approximately 1:00 p.m. on Friday November 26, 1993, and advised of the situation.

The writer returned to KCE's office. Ms. Margaret S. Devenney of KCE was in the office working (the office was closed) and advised the writer via mobile phone during his return trip, that Hazardous Protective vehicles were in the neighborhood of KCE's office.

The writer asked that she proceed outside and determine if the situation was that someone had located our Device.

Ms. Devenney determined that, in fact, there had been an earlier oil spill in the alley adjacent to KCE's offices (approximately 50 feet away) and during the clean-up of that situation our encased Device was noticed.

The D.C. fire department already on site then called the NRC.

By approximately 2:00 p.m. the Device was returned to KCE, in fact, and locked in KCE's equipment room.

We since found that, Mr. Rouco's vehicle rear closure (consisting of a top lift up overlapping canopy and bottom lift down tailgate) had its overlapping locks bent via forceful pulling out of the top bonnet by the thief, thereby allowing the tailgate to be lowered for access by the thief.

Numerous homeless people were in the alley and it is surmised that they broke into Mr. Rouco's truck, thinking they were stealing a cooler with food (the container looks like a yellow picnic cooler) etc - (Thanksgiving.) They removed the container, realized it was not food and discarded it some 100' from where they stole it.

NRC's investigative personnel, Mr. Richard Gibson visited KCE's office on Tuesday November 30, 1993 and confirmed the device locking systems were intact, and the radioactive source un-damaged.

The Device remained in KCE's locked facility until its transfer on Wednesday December 1, 1993, to Ambric Testing & Engineering Associates of VA., Inc. was completed, Ambric came to KCE and picked up the device and transported back to Ambric's office to perform a leak test.

We apologize for the effort NRC had to put forth due to these events, we can only take solace that no one was injured.


I can assure you that we have taken the necessary steps to reprimand those responsible for our apparent inability to properly follow processing the necessary paperwork and following the proper procedures.

I personally have take charge of this situation and, will, after we determine who will be our RSO and, if different, our licensed operator, have the required training, licensing, bills of lading, dosimetry records, leak tests frequency, etc. followed to the letter of the law.

Nuclear Regulatory Commission  
December 6, 1993  
Page 5.....

If you have any further questions on the above, please feel free to call.

Very truly yours,

  
Allyn E. Kilsheimer, P.E.  
President  
KCE Structural Engineers, P.C.

cc: Dr. Pasiak / NRC  
Dr. Bellamy / NRC  
Mr. Courtemanche / NRC  
Mr. Hellenberg / Ambric Testing & Engineering Assoc. VA., Inc.  
Ms. Devenney / KCE  
Mr. Rouco / KCE  
Mr. Stepanick / Blake Construction  
Mr. Gribble / Blake Construction  
Mr. Fudullon / Blake Construction

AEK:sjt

# KCE STRUCTURAL ENGINEERS, P.C.

CONSULTING ENGINEERS • 1818 JEFFERSON PLACE, N.W. • WASHINGTON, D.C. 20036 • 202-833-8622

December 7, 1993

U.S. Nuclear Commission  
Document Control Desk  
Washington, DC 20555

Re: Nuclear Gauge  
Theft & Subsequent Recovery Report  
Required by 10 CFR 20.402(b)

Docket #030-33019  
License #08-30006-01  
Calibration # 1-93-022

To Whom It May Concern:

Sometime in the late afternoon on November 25, 1993 Thanksgiving the above referenced Nuclear Gauge Moisture Measuring Device was stolen.

We have been told under Section 20.402(a)(1) and 20.402(a)(2)(ii) that we report to you as required under 20.402(b)1-6.

We have also reported this theft to The Nuclear Regulatory Commission Region 1, 475 Allendale Road, King of Prussia, Pennsylvania via telephone on November 26, 1993 and in writing.

The facts are as follows:

On Wednesday November 24, 1993 the writer advised Mr. Emilio Rouco (our employee) that the Device should not remain at the temporary device location, a locked closet in a job site trailer over the long Thanksgiving weekend.

Mr. Rouco choose to transport the Device on Thanksgiving evening, Thursday November 25, 1993. He parked his locked, Toyota truck on the street directly in front of KCE's office at 1818 Jefferson Place, the street being vacant of other vehicles.

Mr. Rouco came into the office to pick up some paperwork and stayed for approximately one hour. He returned to his truck and proceeded to his home.

Later than evening (3:00 a.m. Friday November 25, 1993) he went to his truck to return to the office to place the Device in KCE's office.

When he approached his truck outside his home, he realized the Device was missing.



MEMBER

9312150253



U.S. Nuclear Commission  
December 7, 1993  
Page 2.....

The writer, who was out of town for the Thanksgiving holiday, was reached at approximately 1:00 p.m. on Friday November 26, 1993, and advised of the situation.

The writer returned to KCE's office.

Ms. Margaret S. Devenney of KCE was in the office working (the office was closed) and advised the writer via mobile phone during his return trip, that Hazardous Protective vehicles were in the neighborhood of KCE's office.

The writer asked that she proceed outside and determine if the situation was that someone had located our Device.

Ms. Devenney determined that, in fact, there had been an earlier oil spill in the alley adjacent to KCE's offices (approximately 50 feet away) and during the clean-up of that situation our encased Device was noticed.

The D.C. fire department already on site then called the NRC.

By approximately 2:00 p.m. on Friday November 26, 1993 (some 12-16 hours after the theft) the Device was returned to KCE, in fact, and locked in KCE's equipment room.

The device remained intact, locked with a padlock, and the carrying case also locked with a padlock.

We since found that, Mr. Rouco's vehicle was a late model Toyota Truck with a fully enclosed, fully covering, mechanical fastened track bed enclosure. Mr. Rouco's vehicle rear closure (consisting of a top lift up overlapping door on the sealed canopy and bottom lift down tailgate of the sealed canopy) had its overlapping locks bent via forceful pulling out of the top bonnet by the thief, thereby allowing the tailgate to be lowered for access by the thief.

Numerous homeless people were in the alley and it is surmised that they broke into Mr. Rouco's truck, thinking they were stealing a cooler with food (the container looks like a yellow picnic cooler) etc - (Thanksgiving.) They removed the container, realized it was not food and discarded it some 100' from where they stole it.

NRC's investigative personnel, Mr. Richard Gibson visited KCE's office on Tuesday November 30, 1993 and confirmed the device locking systems were intact, and the radioactive source un-damaged.

U.S. Nuclear Commission  
December 7, 1993  
Page 3.....

The Device remained in KCE's locked facility until its transfer on Wednesday December 1, 1993, to Ambric Testing & Engineering Associates of VA., Inc. was completed, Ambric came to KCE and picked up the device and transported back to Ambric's office to perform a leak test.

We apologize for the effort NRC had to put forth due to these events, we can only take solace that no one was injured.

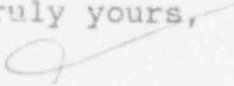
I can assure you that we have taken the necessary steps to reprimand those responsible for our apparent inability to properly follow processing the necessary paperwork and following the proper procedures.

When we, after the necessary approvals, resume use of the Device, we will have the Device locked as required with the double lock and have it chained, through the carry case handles to the vehicle it is being transported in and it will be covered with a tarpaulin.

It therefore will be when not in use, chained in a vehicle for transport and then closed and locked in KCE's secure equipment room at KCE's office.

If you have any further questions on the above, please feel free to call.

Very truly yours,

  
Allyn E. Kilsheimer, P.E.  
President  
KCE Structural Engineers, P.C.

cc: Dr. Pasiak / NRC  
Dr. Bellamy / NRC  
Mr. Courtemanche / NRC  
Nuclear Regulatory Commission  
Region 1  
475 Allendale Road  
King of Prussia, Pennsylvania 19406-1415

AEK:sjt



(8) Records of disposal of licensed materials made pursuant to §§ 20.302, 20.303, removed § 20.304, and Part 81 of this chapter are to be maintained until the Commission authorizes their disposition.

(6) Records which must be maintained pursuant to this part may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations.

(5) If there is a conflict between the Commission's regulations in this part, license condition, or technical specification, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the regulations in this part for such record shall apply unless the Commission pursuant to § 20.501, has granted a specific exemption from the record retention requirements specified in the regulations in this part.

§ 20.402 Reports of theft or loss of licensed material.

(a)(1) Each licensee shall report to the Commission, by telephone, immediately after it determines that a loss or theft of licensed material has occurred in such quantities and under such circumstances that it appears to the licensee that a substantial hazard may result to persons in unrestricted areas.

(2) Reports must be made as follows:

(i) Licensees having an installed Emergency Notification System shall make the reports to the NRC Operations Center in accordance with § 20.72 of this chapter.

(ii) All other licensees shall make reports to the Administrator of the appropriate NRC Regional Office listed in Appendix D of this part.

(b) Each licensee who makes a report under paragraph (a) of this section shall, within 30 days after learning of the loss or theft, make a report in writing to the U.S. Nuclear Regulatory Commission, Document Control Desk, Washington, D.C. 20555, with a copy to the appropriate NRC Regional Office listed in Appendix D of this part. The report shall include the following information:

- (1) A description of the licensed material involved, including kind, quantity, chemical, and physical form;
- (2) A description of the circumstances under which the loss or theft occurred;
- (3) A statement of disposition or probable disposition of the licensed material involved;
- (4) Radiation exposures to individuals,

circumstances under which the exposures occurred, and the extent of possible hazard to persons in unrestricted areas;

(5) Actions which have been taken, or will be taken, to recover the material; and

(6) Procedures or measures which have been or will be adopted to prevent a recurrence of the loss or theft of licensed material.

(c) Subsequent to filing the written report the licensee shall also report any substantive additional information on the loss or theft which becomes available to the licensee, within 30 days after he learns of such information.

(d) Any report filed with the Commission pursuant to this section shall be so prepared that names of individuals who may have received exposure to radiation are stated in a separate part of the report.

(e) For holders of an operating license for a nuclear power plant, the events included in paragraph (b) of this section must be reported in accordance with the procedures described in § 20.73 (b), (c), (d), (e), and (g) of this chapter and must include the information required in paragraph (b) of this section. Events reported in accordance with § 20.73 of this chapter need not be reported by a duplicate report under paragraph (b) of this section.

§ 20.403 Notifications of incidents.

(a) Immediate notification. Each licensee shall immediately report any events involving byproduct, source, or special nuclear material possessed by the licensee that may have caused or threatens to cause:

(1) Exposure of the whole body of any individual to 25 rems or more of radiation; exposure of the skin of the whole body of any individual of 150 rems or more of radiation; or exposure of the feet, ankles, hands or forearms of any individual to 375 rems or more of radiation; or

(2) The release of radioactive material in concentrations which, if averaged over a period of 24 hours, would exceed 5,000 times the limits specified for such materials in Appendix B, Table II of this part.

(3) [Removed 56 FR 40757.]

(4) [Removed 56 FR 40757.]

(b) Twenty-four hour notification. Each licensee shall within 24 hours of discovery of the event, report any event involving licensed material possessed by the licensee that may have caused or threatens to cause:

(1) Exposure of the whole body of any individual to 5 rems or more of radiation; exposure of the skin of the whole body of any individual to 30 rems or more of radiation; or exposure of the feet, ankles, hands, or forearms to 75 rems or more of radiation; or

(2) The release of radioactive material in concentrations which, if averaged over a period of 24 hours, would exceed 500 times the limits specified for such materials in Appendix B, Table II of this part.

(3) [Removed 56 FR 40757.]

(4) [Removed 56 FR 40757.]

(c) Any report filed with the Commission pursuant to this section shall be prepared so that names of individuals who have received exposure to radiation will be stated in a separate part of the report.

(d) Reports made by licensees in response to the requirements of this section must be made as follows:

(1) Licensees that have an installed Emergency Notification System shall make the reports required by paragraphs (a) and (b) of this section to the NRC Operations Center in accordance with § 20.72 of this chapter.

(2) All other licensees shall make the reports required by paragraphs (a) and (b) of this section by telephone to the NRC Operations Center and by telegram, mailgram, or facsimile to the Administrator of the appropriate NRC Regional Office listed in Appendix D of this part.

§ 20.404 [Reserved]

§ 20.405 Reports of overexposures and sensitive levels and concentrations.

(a)(1) In addition to any notification required in this part, each licensee shall make a report in writing concerning any one of the following types of incidents within 30 days of its occurrence:

(i) Each exposure of an individual to radiation in excess of the applicable limits in §§ 20.107 or 20.104(a) of this part, or the licensee;

(ii) Each exposure of an individual to radioactive material in excess of the applicable limits in §§ 20.103(a)(1), 20.103(a)(2), or 20.104(b) of this part, or in the licensee;

\* Commercial telephone number of the NRC Operations Center is (301) 851-0830.

48 FR 33850  
48 FR 7390

44  
ACCESS  
70