



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
101 MARIETTA STREET, N.W., SUITE 2900
ATLANTA, GEORGIA 30323-0199

JUN 20 1994

Docket No. 150-00032
License No: General License (10 CFR 150.20)
EA 93-241

S. K. McBryde, Inc.
ATTN: Mr. Charles A. Gay
President
1103 Norwalk Street
Greensboro, North Carolina 27407

Gentlemen:

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY-
\$1,500
(NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-91-006R)

This refers to the Nuclear Regulatory Commission (NRC) Office of Investigations (OI) report of an investigation, which was completed on August 31, 1993. The investigation was conducted to determine if willful violations of NRC requirements occurred in connection with a potential falsification of radiation survey records. The records were generated by your radiographer while performing NRC-licensed activities under an NRC General License granted to S.K. McBryde pursuant to 10 CFR 150.20. A synopsis of the investigation report was provided to you in our letter dated February 7, 1994. As a result of the investigation, violations of NRC requirements were identified. An enforcement conference to discuss these violations was held via telephone on February 16, 1994. A summary of the conference was provided to you on March 3, 1994.

The violations are described in the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice). Violation A in the Notice involved the failure to maintain complete and accurate records of radiation surveys performed by the radiographer on March 8, 12 and 14, 1991. Specifically, the radiographer entered onto the survey records the serial number of a calibrated survey instrument that he knew was not the instrument used to perform the surveys. The instrument actually used for performing the surveys was not in calibration. Violations B and C in the Notice involved the failure to perform the required radiation surveys with a radiation survey instrument that was properly calibrated.

While these violations normally would be categorized at Severity Level V, based on the safety significance, they have been categorized at Severity Level IV because of the willful actions of the radiographer. We are particularly concerned about these violations because the radiographer knowingly used a radiation survey instrument whose calibration had expired and subsequently falsified the survey records in an attempt to cover up the violation.

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In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Action," (Enforcement Policy) 10 CFR Part 2, Appendix C, Section VI of the Enforcement Policy states that a civil penalty may be proposed for any willful violation and provides that a civil penalty for Severity Level IV violations is normally proposed at the base values identified in the tables without assessing the civil penalty adjustment factors. The violations in the enclosed Notice are classified as a Severity Level IV problem.

Willful violations at any severity level are of significant concern to the NRC because the conduct of licensed activities in accordance with Commission requirements depends in large part on the integrity of the individual. To emphasize the significance of deliberate violations of NRC requirements and the need for providing complete and accurate information to the NRC, I have been authorized, after consultation with the Commission, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$1,500 for the violation set forth in the enclosed Notice.

In addition, a letter is being sent to the radiographer to remind the radiographer that on September 16, 1991, the NRC revised its regulations to allow the issuance of orders and other civil sanctions to be taken directly against unlicensed persons who, through their deliberate misconduct, cause a licensee to be in violation of NRC requirements. Any future deliberate misconduct on the part of the radiographer could result in enforcement action against the radiographer as provided in 10 CFR 2.202 and 10 CFR 30.10.

As discussed during the enforcement conference, the NRC must be able to rely on Licensees and their employees to comply with NRC requirements, including requirements to provide information and maintain records that are complete and accurate in all material respects. The NRC expects no less than full compliance with all applicable regulatory requirements, and deliberate noncompliance with those requirements will not be tolerated. During the enforcement conference, you described your corrective actions in response to the violations and NRC concerns. Specifically, you indicated that you have: 1) developed a system for oversight of instrument calibrations and records, 2) counseled the radiographer, 3) conducted lessons-learned training for other radiographers, and 4) prepared a statement of policy that safety and compliance with regulations are priorities.

You are required to respond to this Notice and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document specific actions taken and any additional actions you plan to prevent recurrence. If the corrective actions described in the above paragraph differ from the actions you have taken, you must advise us and identify what action has been taken. After reviewing your response to this Notice, including your proposed corrective actions and the results of future inspections, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

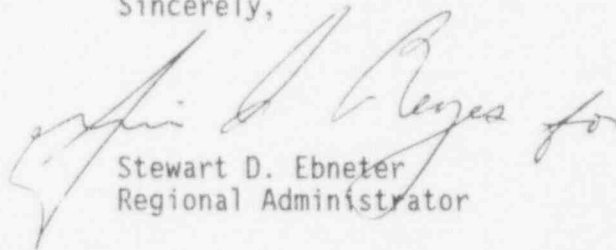
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Should you have any questions concerning this matter, please contact Ms. Patricia A. Santiago, Assistant Director for Materials, Office of Enforcement, at (301)-504-2741.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and any reply will be placed in the NRC Public Document Room.

The responses directed by this letter and the enclosed Notice 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,



Stewart D. Ebnetter
Regional Administrator

Enclosures:

1. Synopsis of OI Investigation
2. Notice of Violation and Proposed Imposition of Civil Penalty
3. Letter to Radiographer

cc w/encls:

State of North Carolina

SYNOPSIS

On May 28, 1991, the Regional Administrator, U.S. Nuclear Regulatory Commission (NRC), Region II, requested an investigation be initiated concerning the apparent falsification of radiographic survey records by S. K. McBryde, Inc., (SKM), a licensee of the State of North Carolina, operating under the NRC general license. The apparent falsification pertained to daily radiation survey reports for a cobalt 60 radiography camera utilized in Abingdon, VA. This matter surfaced during NRC Region I and Region II followup inspections to resolve allegations of improper radiographic activities by SKM.

Investigation included review of radiation survey records, review of pertinent United Parcel Service shipping documents, and interview of SKM management and employees. During a transcribed, sworn interview, the subject, an SKM radiographer, admitted to intentionally falsifying radiographic survey records. There was insufficient evidence to conclude that SKM managers or owners were aware of subject's misconduct prior to contact by the NRC.

On August 27, 1993, the U.S. Attorneys Office, Middle District of North Carolina, declined prosecution in favor of other remedies available to the NRC.