



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

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

March 11, 2020

IA-20-005

Mr. Stanley Schultz
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390(a)]

SUBJECT: NOTICE OF VIOLATION, NRC INVESTIGATION REPORT NO. 3-2018-009

Dear Mr. Schultz:

This letter refers to an investigation completed on September 4, 2019, by the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) regarding portable gauge activities at Schultz Surveying & Engineering (SSE), and an NRC Order revoking SSE's license for non-payment of licensing fees. The purpose of the investigation was to determine whether you: (1) willfully failed to respond to an NRC Order; and (2) willfully transferred a Troxler Model 3440 portable moisture density gauge to an unlicensed entity.

In the letter transmitting the factual summary of the OI report, dated January 29, 2020, we provided you the opportunity to address the apparent violation identified in the report by: (1) responding in writing to the apparent violation; (2) meeting with the NRC in a Predecisional Enforcement Conference (PEC); (3) meeting with the NRC and a neutral mediator in a process called Alternative Dispute Resolution (ADR); or (4) submitting a license termination request to the NRC to officially terminate SSE's NRC license. This letter is available on NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> at [ML20029E999](#). In a letter dated February 4, 2020 (ML20041E816), you provided a response to the apparent violation that included a request to terminate SSE's NRC license.

Based on the information developed during the investigation and the information that you provided in your response dated February 4, 2020, the NRC has determined that a deliberate violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice). The violation involved you deliberately transferring a portable moisture density gauge containing licensed quantities of radioactive materials to a person who was not authorized to receive such materials under the terms of a specific or general license. Your deliberate actions placed SSE in violation of Title 10 of the *Code of Federal Regulations* (CFR) Section 30.41(b)(5) and you in violation of 10 CFR Section 30.10, "Deliberate Misconduct." Given the significance of the underlying issue and the deliberate nature of your actions, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III.

In determining the appropriate sanction to be issued in this case, the NRC considered issuing an order prohibiting your involvement in NRC-licensed activities as a result of your actions. However, after consultation with the Director, Office of Enforcement, and after considering the

circumstances of this case, including: (1) the actual safety significance was low, and (2) you submitted a request to terminate your license, which was subsequently issued on February 20, 2020 (ML20054C145), I have decided to issue the enclosed Notice of Violation. You should be aware that if you are involved in NRC-licensed activities in the future, additional deliberate violations could result in more significant enforcement action and you may also be subject to criminal prosecution.

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 was achieved is already adequately addressed on the docket in your letter dated February 4, 2020. 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 you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's ADAMS. 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. The NRC will also make the letter describing the apparent violation, dated January 29, 2020, and your response, dated February 4, 2020, publicly available.

The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>). In addition, this letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, Enforcement Actions Against Individuals. This system, which is not publicly-accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. Detailed information about the NRC's Privacy Act System of Records, including NRC-3, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Please feel free to contact Jamnes Cameron of my staff at 630-810-4373 if you have any questions.

Sincerely,

/RA by John B. Giessner acting for/

Darrell J. Roberts
Regional Administrator

Enclosure:
Notice of Violation

UPS Express
RETURN RECEIPT REQUESTED

Letter to Stanley Schultz from Darrell J. Roberts, dated March 11, 2020

SUBJECT: NOTICE OF VIOLATION, NRC INVESTIGATION REPORT NO. 3-2018-009

DISTRIBUTION:

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NAME	KLambert:jc		RRuiz		DPelton		RSun	
DATE	2/27/2020		2/28/2020		2/28/2020		3 /05 /2020	
OFFICE	OE		OGC		RIII-EICS		RIII-ORA	
NAME	JPeralta		NMoran		JCameron		DRoberts	
DATE	3/10/2020		03 /09 /2020		3/11/2020		3/11/2020	

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Mr. Stanley Schultz
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

IA-20-005

During a U.S. Nuclear Regulatory Commission (NRC) investigation completed on September 4, 2019, by the Office of Investigations, a deliberate 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) 30.10(a)(1) requires, in part, that any employee of a licensee, who knowingly provides to any licensee or applicant, materials, or other goods or services that relate to a licensee's or applicant's activities in this part, may not engage in deliberate misconduct that causes or would have caused, if not detected, a licensee, or applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Commission.

Title 10 CFR 30.41(a) requires that no licensee shall transfer byproduct material except as authorized pursuant to this section.

Title 10 CFR 30.41(b)(5) requires that except as otherwise provided in his license and subject to the provisions of paragraphs (c) and (d) of this section, any licensee may transfer byproduct material to any person authorized to receive such byproduct material under terms of a specific license or a general license or their equivalents issued by the Atomic Energy Commission, the Commission, or an Agreement State.

Contrary to the above, on January 31, 2017, you deliberately transferred byproduct material to a person not authorized to receive such byproduct material under terms of a specific license or a general license or their equivalents issued by the Atomic Energy Commission, the Commission, or an Agreement State.

This is a Severity Level III violation (Section 6.3 of the NRC Enforcement Policy).

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 your letter dated February 4, 2020. 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

Enclosure

response as a "Reply to a Notice of Violation, (IA-20-005)" 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 60532-4352 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 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.

This letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, Enforcement Actions Against Individuals. This system, which is not publicly-accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Dated this 11th day of March 2020.