



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
789 ROOSEVELT ROAD
GLEN ELIYN, ILLINOIS 60137

November 20, 1992

General License
(10 CFR 31.5)
EA 92-202

Kaiser Aluminum and Chemical Corporation
ATTN: Edward George, Esq.
Post Office Box 1791
Charleston, West Virginia 25326

Dear Mr. George:

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL
PENALTY - \$625 (INSPECTION REPORT 999-90003/92037)
(ENFORCEMENT CONFERENCE REPORT 999-90003/92041)

This refers to the special safety inspection conducted during June 1992 to October 14, 1992, to review the circumstances surrounding the transfer of a nuclear gauge that Kaiser Aluminum and Chemical Corporation previously possessed under an NRC general license. The report documenting this inspection was telefaxed and mailed to you by letter, dated November 5, 1992. A significant violation of NRC requirements was identified during the inspection, and on November 10, 1992, an enforcement conference was held in the NRC Region III office. Participating in the enforcement conference were you, Mr. William L. Axelson, Deputy Director, Division of Radiation Safety and Safeguards, NRC Region III, and other members of our respective organizations. The report of that enforcement conference is attached.

In April 1991 portal radiation detectors at NUCOR Steel, a steel reprocessor located at Crawfordsville, Indiana, detected a gauge containing 100 millicuries of cesium-137. The device did not have any discernable markings and ownership of the gauge was not established until June 1992, when the device was retrieved from NUCOR for disposal. At that time, the representative of the firm that was to dispose of the device recognized it as one that was manufactured by Kay-Ray, Inc. Kay-Ray was contacted and determined from business records that the generally licensed device had been sold to Kaiser Aluminum in 1981. The inspection established that in 1989 Kaiser Aluminum sold a facility in Bedford, Indiana, to Ravenswood Aluminum and Kaiser Aluminum did not inform Ravenswood Aluminum that a generally licensed device was installed in the plant. Not knowing of the existence of the generally licensed device, Ravenswood Aluminum sent the device, along with other scrap metal, to NUCOR for reprocessing. The inspection also established that Kaiser Aluminum did not notify the NRC of the transfer of the device. Both notifications are required by 10 CFR 31.5(c)(9)(1).

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The failure to inform Ravenswood Aluminum of the presence of the generally licensed device caused a loss of control over the nuclear device. This represents a potentially significant hazard to the health and safety of the general public and indicates a serious lack of control over licensed material. The loss also demonstrates a significant lack of management involvement in the oversight of the use of radioactive materials.

The violation is fully described in the enclosed Notice of Violation and concerns the failure to notify the purchaser of the existence of the generally licensed device and a failure to notify the NRC of the transfer of the device. The violation represents a failure to control access to licensed material for radiation purposes because the generally licensed device was found in the public domain. Therefore, in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy) 10 CFR Part 2, Appendix C (1989), the violation is categorized at Severity Level III.

The root cause of the violation and the subsequent corrective actions were discussed during the November 10, 1992, enforcement conference. During the enforcement conference, you attributed the root cause of the violation to the decentralized form of management used by Kaiser Aluminum and Chemical Corporation. Your corrective actions consisted of: notifying all Kaiser facilities of the incident; contracting for the services of a certified health physicist; and recentralizing health, safety and environmental affairs, including radiation safety. Other corrective measures included: developing an audit process for radiation safety, including annual audits of each facility by personnel at the facility and biennial audits of each facility by the corporate staff; planning to include radiation safety as a specific topic in a workshop for environmental and industrial safety managers; and conducting an inventory of known radioactive sources.

The general license under which Kaiser Aluminum and Chemical Corporation possessed nuclear materials requires that radiation safety be managed effectively. Incumbent on Kaiser Aluminum and Chemical Corporation is the responsibility to protect the health and safety of employees and the public by assuring that all requirements of the NRC general license are met. Therefore, I have decided to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the amount of \$625 for the Severity Level III violation.

The base value of a civil penalty for a Severity Level III violation is \$500. The civil penalty adjustment factors in the Enforcement Policy were considered and on balance the amount of the civil penalty was increased 25 percent. The civil penalty was initially increased 50 percent because the NRC identified the violation. However, this was partially offset by 25 percent mitigation for your corrective actions. Mitigation of 50 percent,

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the maximum permitted by the Enforcement Policy for the corrective action adjustment factor, was not appropriate because your inventory appeared to be cursory and included only those radioactive sources that were readily identifiable. A thorough inventory, including a comparison of business records to sources in your inventory to determine if any sources were missing, was not performed. Also, the inventory did not encompass radioactive devices that may have been located at other properties previously owned by Kaiser Aluminum and Chemical Corporation. The remaining factors in the Enforcement Policy were also considered and no further adjustment to the base civil penalty is considered appropriate.

We are concerned that an adequate inventory was not made to determine whether other devices containing licensed material may be missing from your inventory. It is our understanding that Kaiser will perform an inventory in which records of the purchase or of the receipt of licensed materials, records of byproduct material use, and records of disposal of materials are cross-referenced to ensure accountability of all licensed materials. The inventory should also include, insofar as possible, licensed materials received by facilities previously owned by Kaiser Aluminum and Chemical Corporation. The report of your inventory should be submitted to NRC Region III at the same time as your answer to the enclosed Notice. Please contact Ms. B. J. Holt of my staff at telephone number (708) 790-5624 if you have any questions.

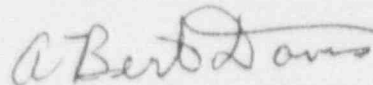
You are required to document your response to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. Please ensure that you describe the actions you have taken to strengthen the management oversight of your radiation safety program, including a full description of the audit program that you plan to implement. After reviewing your response to this Notice, including your proposed corrective actions, your proposed audit program, the results of your inventory, and the results of future inspections, the NRC will determine whether further NRC 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," a copy of this letter, its enclosure, and your response will be placed in the NRC Public Document Room.

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The response 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, Public Law No. 96-511.

Sincerely,



A. Bert Davis
Regional Administrator

Enclosure:

1. Notice of Violation and Proposed
Imposition of Civil Penalty
2. Enforcement Conference Report

November 20, 1992

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State of Indiana

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