

UNITED STATES  
NUCLEAR REGULATORY COMMISSION

In the Matter of

PRECISION LOGGING AND PERFORATING  
COMPANY  
Cleveland, Oklahoma 74020

}  
}  
}  
}  
} Docket No. 30-19498  
License No. 35-17186-02  
EA 87-184

ORDER IMPOSING CIVIL MONETARY PENALTY

I

Precision Logging and Perforating Company, Cleveland, Oklahoma (the licensee) is the holder of Materials License No. 35-17186-02 issued by the Nuclear Regulatory Commission (NRC/Commission) on December 2, 1981, and amended last in its entirety on January 21, 1988. The license authorizes the licensee to use sealed sources for oil and gas well logging in accordance with the conditions specified therein.

II

A routine inspection of the licensee's activities was conducted on August 18 and 19, 1987. The results of this inspection indicated that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated December 10, 1987. The Notice stated the nature of the violations, the provisions of the NRC's requirements that the licensee had violated, and the amount of the civil penalty proposed for the violations. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalty by two letters, both dated January 7, 1988.

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In its response, the licensee contested Violations A and D but not the other violations. In addition, the licensee requested that the proposed civil penalty be rescinded for several stated reasons, including financial hardship. By letter dated February 16, 1988, the NRC provided the licensee with the opportunity to submit specific financial information on the company's recent profit and loss and its net worth. The licensee submitted this information by letter dated February 15, 1988.

### III

After consideration of the licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the Deputy Executive Director for Regional Operations has determined as set forth in the Appendix to this Order that the violations occurred as stated, but that the civil penalty proposed in the Notice of Violation would constitute an excessive financial hardship for the licensee, and therefore should be mitigated by 50 percent.

### IV

In view of the foregoing and pursuant to Sections 81, 161b, 182, and 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, IT IS HEREBY ORDERED THAT:

The licensee pay a civil penalty in the amount of Five Hundred Dollars (\$500) within 30 days of the date of this Order, by check, draft, or money

order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555.

VI

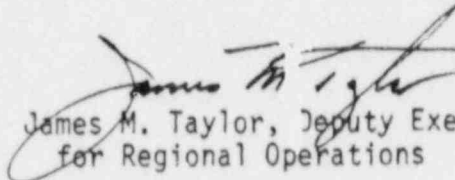
The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of Section IV.A. of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

- (a) whether the Licensee was in violation of Violations A and D of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above, and
- (b) whether, on the basis of the admitted violations, this Order should be sustained.

FOR THE NUCLEAR REGULATORY COMMISSION

  
James M. Taylor, Deputy Executive Director  
for Regional Operations

Dated at Rockville, Maryland,  
this 7th day of July 1988.

## APPENDIX

### EVALUATIONS AND CONCLUSIONS

On December 10, 1987, a Notice of Violation and Proposed Imposition of Civil Penalty (NOV) was issued for violations identified during an NRC inspection. Precision Logging and Perforating Company responded to the Notice by two letters dated January 7, 1988, and by subsequent statement of the corporate financial status sent by letter dated February 15, 1988. In its response, the licensee claimed that two of the violations should not have been cited. In addition, the licensee requested that the proposed civil penalty be rescinded for several reasons, including financial hardship. The NRC's evaluation and conclusion regarding the licensee's arguments are as follows:

#### I. Restatement of Violation A

10 CFR 20.201(b) requires that each licensee shall make or cause to be made such surveys as: (1) may be necessary for the licensee to comply with the regulations in 10 CFR Part 20 and (2) are reasonable under the circumstances to evaluate the extent of radiation hazards that may be present.

10 CFR 20.105(b) requires, in part, that radiation levels in unrestricted areas be limited so that an individual who was continuously present in the area could not receive a dose in excess of 2 millirems in any one hour or in excess of 100 millirems in any seven consecutive days.

Contrary to the above, surveys had never been made in the unrestricted areas adjacent to the radioactive source storage area to determine compliance with 10 CFR 20.105(b) and 20.201(b).

#### Summary of Licensee's Response

The licensee contends that the violation should not have been cited. The licensee claims that previous surveys revealed no reading above 2 millirems in any hour, and since the number of sources and the other factors did not vary, it did not realize that it was necessary to make additional surveys.

#### NRC Evaluation of Licensee's Response

The licensee admits that no previous surveys were recorded. During the NRC inspector's survey of the storage area, the licensee's representative stated, when asked, that he had never performed such a survey and knew of no records of anyone having performed one previously. During the Enforcement Conference, the licensee's representatives acknowledged this violation. Given these statements and the absence of records of previous surveys, the NRC has no evidence that such surveys were performed. Because no basis has been submitted in the licensee's response that would support withdrawal of the violation, the violation remains as stated.

Restatement of Violation B

10 CFR 20.203(e) requires, in part, that areas in which specified amounts of licensed material are stored or used be conspicuously posted with a sign or signs bearing the radiation caution symbol and either the words "CAUTION RADIOACTIVE MATERIAL" or "DANGER RADIOACTIVE MATERIAL."

Contrary to the above, during the NRC inspection, the area of the shop in which the storage wells were located contained stored licensed material in the specified amounts and was not posted.

Summary of Licensee's Response

The licensee does not deny the violation.

NRC Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

Restatement of Violation C

10 CFR 20.207(a) requires that licensed materials stored in an unrestricted area be secured against unauthorized removal from the place of storage. As defined in 10 CFR 20.3(a)(17), an unrestricted area is any area to which access is not controlled by the licensee for purposes of protection of individuals from exposure to radiation and radioactive materials.

Contrary to the above, on August 18, 1987, an americium-beryllium source, serial no. T-222, was found by the NRC inspector to be stored in an unlockable shipping container, in an unlocked outer compartment of a truck parked in an unlocked garage.

Summary of Licensee's Response

The licensee does not deny the violation.

NRC Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

Restatement of Violation D

License Condition 14 requires that the licensee shall conduct a physical inventory every 6 months to account for all sources received and possessed under the license. Records of inventories shall be maintained for 2 years from the date of each inventory.

Contrary to the above, records of inventories, to account for all sources received and possessed under the license, were not available for any time during the 2 years prior to the inspection.



Summary of Licensee's Response

The licensee contends that this violation should not be cited. The licensee claims that it has maintained leak test procedures on each source and used the sources at least monthly. The licensee argues that the leak tests as well as use of the sources constitutes inventories, and that while the regulation may be appropriate to a large company, it should not be enforced in this case because it has complied with the intent of the regulation through its leak test records.

NRC Evaluation of Licensee's Response

The violation was not that inventories were not performed, but rather that proper records of these inventories were not maintained.

Additionally, while records of leak tests and inventories may be combined, the leak test record in itself does not provide all the information required by the inventory record. In addition to indicating the date of inventory and the quantity and type of material, an inventory record includes the location of the licensed material and the individual conducting the inventory. Furthermore, the NRC emphasizes that the regulation applies to all licensees, regardless of their size, and that a licensee is expected to comply with NRC regulations, not what they perceive as "the intent" of the regulations. Because no basis has been provided by the licensee for withdrawal of the violation, the violation remains as stated.

Restatement of Violation E

License Condition 15 requires the licensee to transport licensed material in accordance with the provisions of 10 CFR 71. 10 CFR 71.5(a) requires, in part, that the licensee comply with applicable requirements of the Department of Transportation in 49 CFR Parts 170-189.

1. 49 CFR 172.403 requires that each package of radioactive material be labeled, as appropriate, with a RADIOACTIVE WHITE-I, a RADIOACTIVE YELLOW-II, or a RADIOACTIVE YELLOW-III label.

Contrary to the above, the transportation containers housing source Nos. T-222 containing 4.6 curies of americium-beryllium, 71-1-422B containing 5 curies of americium-beryllium, and CSV-969 containing 2 curies of cesium-137, were transported during approximately the last 2 years without the appropriate labels.

This is a repeat violation.

2. 49 CFR 172.200 requires that each person who transports or offers a package of hazardous material for transport describe the material on a shipping paper as described in this subpart.

Contrary to the above, the licensee's representative stated that shipping papers were not prepared and carried during transportation for approximately the last 4 years.

This is a repeat violation.

Summary of Licensee's Response

The licensee does not deny the violation.

NRC Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

Restatement of Violation F

License Condition 16 requires that licensed material shall be possessed and used in accordance with statements, representations, and procedures contained in the application dated November 4, 1981; and letters dated October 10, 1986, and January 7, 1987.

Section 3 of the procedures submitted with the license application requires that all sources of radioactivity be kept locked in storage unless actually in use. The letter of October 10, 1986, confirms that storage wells are to be used.

Contrary to the above, on August 18, 1987, a 4.6 curie americium-beryllium source, T-222; a 5-curie americium-beryllium source, 71-1-422B; and a 2-curie cesium-137 source, CSV-H50, were stored on trucks rather than in storage wells.

Summary of Licensee's Response

The licensee does not deny the violation.

NRC Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

II. Summary of Licensee's Request for Mitigation

The licensee contests the proposed civil penalty for two basic reasons. These can be summarized as follows: (1) The severity of the violations does not warrant a penalty. In this connection, the licensee argues that the statement in the December 10, 1987, cover letter transmitting the Notice of Violation that these violations collectively demonstrate a significant breakdown in management oversight and control over its licensed program is erroneous, and that the violations do not constitute a health physics problem but a procedural problem and, as such, do not warrant a cumulative civil penalty in the amount proposed. (2) In light of the financial hardship experienced by the licensee as a result of the current economic depression being experienced by the oil industry, and the expense which the licensee has undergone in order to "accommodate the enforcement actions which resulted from the inspection," the proposed civil penalty is excessive.



NRC Evaluation of Licensee's Request for Mitigation

Regarding the licensee's request for mitigation of the civil penalty based on its contention that the severity of the violations does not warrant a penalty and that the violations do not constitute a health physics problem but a procedural problem, the NRC maintains that the severity of the violations do warrant a penalty because the violations collectively demonstrate a significant breakdown in the licensee's oversight and control of its radiation safety program. In addition, the NRC considers these violations to be more than procedural problems and proposed a penalty to emphasize that the NRC considers these violations to be a serious matter, and to emphasize the need to take timely and comprehensive corrective actions. The NRC expects licensees to maintain a high level of compliance with NRC requirements. The base civil penalty was increased by 100 percent because of the licensee's poor prior performance, the multiple occurrences of most of the violations, and the licensee's failure to take adequate corrective actions to preclude repeat violations identified during the previous inspection.

The NRC Enforcement Policy recognizes that a licensee's ability to pay is a proper consideration in determining the amount of the civil penalty. The licensee's financial information submitted in its February 15, 1988 letter demonstrates that imposition of a civil penalty in the amount proposed would create a severe financial burden. In light of the licensee's current financial situation, the penalty is being mitigated by 50 percent.

III. NRC Conclusion

The NRC staff has carefully reviewed the licensee's response and the financial information submitted by the licensee, and has concluded that the violations occurred as stated. However, the NRC has determined that in light of the licensee's financial situation, the proposed civil penalty should be mitigated by 50 percent.

Precision Logging and Perforating Co.

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