

Yellow

JUL 17 1987

Docket No. 030-12965
License No. 47-17564-01
EA 87-96

Kermit Butcher
ATTN: Mr. Kermit Butcher
P. O. Box 213
Elkins, WV 26241

Gentlemen:

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY
(NRC INSPECTION REPORT NO. 47-17564-01/87-01)

This refers to the Nuclear Regulatory Commission (NRC) inspection conducted by L. Franklin at the Kermit Butcher facility in Elkins, West Virginia, on May 27, 1987. The inspection included a review of licensed activities as they relate to radiation safety. As a result of this inspection, significant failures to comply with NRC regulatory requirements were identified, and accordingly, NRC concerns relative to the inspection findings were discussed by W. Cline, Chief, Nuclear Materials Safety and Safeguards Branch, NRC, Region II, with you and a member of your staff during an Enforcement Conference held by telephone on June 4, 1987.

The violations described in the enclosed Notice of Violation and Proposed Imposition of Civil Penalty included the improper storage of licensed material. As a result of the improper storage, licensed material was stolen. The failure to secure the material from unauthorized removal when unattended has apparently persisted for several years. The other violations involved a failure to make the proper notifications to the NRC upon the loss of licensed material, multiple examples of the failure to carry shipping papers during transport, the use of licensed material by unauthorized persons, a failure to maintain leak test records, several examples of the failure to perform a physical inventory, and a failure to post required documents. While these other violations are not as serious as the improper storage violation, they contributed significantly to the conclusion that a breakdown of management control over your radiation safety program occurred.

To emphasize the need to improve management oversight and control of your radiation safety program, I have been authorized, after consultation with the Director, Office of Enforcement, and Deputy Executive Director for Regional Operations, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty in the amount of Five Hundred Dollars (\$500) for the violations described in the enclosed Notice. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Action," 10 CFR Part 2, Appendix C (1987) (Enforcement Policy), the violations described in the enclosed Notice have been categorized in the aggregate as a Severity Level III problem. The base value of a civil penalty for a Severity Level III violation or problem is \$500. The escalation and mitigation factors in the Enforcement Policy were

Kermit Butcher

- 2 -

considered and no adjustment has been deemed appropriate. Any mitigation that may have been warranted for your prior good performance is offset by the multiple examples of several of the violations.

You are required to respond 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 you plan to prevent recurrence. After reviewing your response to this Notice, including your proposed corrective actions, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter and its enclosures will be placed in the NRC Public Document Room.

The responses directed by this letter and its enclosures are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, PL 96-511.

Should you have any questions concerning this letter, please contact us.

Sincerely,

Original signed by
J. Nelson Grace

J. Nelson Grace
Regional Administrator

Enclosures:

1. Notice of Violation and
Proposed Imposition of
Civil Penalty
2. NRC Inspection Report

bcc w/encls:

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Kenneth Butcher

- 3 -

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