

August 9, 2011

EA-11-175

Thomas E. Mohr
Radiological Emergency Program Manager
State of Missouri
Emergency Management Agency
P.O Box 116
Jefferson City, MO 65102

SUBJECT: NRC REACTIVE INSPECTION REPORT NO. 03007247/2011-002(DNMS) –
STATE OF MISSOURI EMERGENCY MANAGEMENT AGENCY

Dear Mr. Mohr:

On July 12, 2011, the U.S. Nuclear Regulatory Commission (NRC) performed an inspection at your facility in Jefferson City, Missouri. The purpose of the inspection was to follow up on a security-related issue. The enclosed report presents the results of this inspection. The results of the inspection were discussed with you and members of your staff at the exit meeting on July 12, 2011.

Based on the results of this inspection, one apparent violation was identified and is being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The apparent violation, which relates to security of licensed materials, is discussed in the attached inspection report. The circumstances surrounding the apparent violation, the significance of the issues, and the need for lasting and effective corrective action were discussed with you and members of your staff at the exit meeting on July 12, 2011. As a result, it may not be necessary to conduct a pre-decisional enforcement conference (PEC) in order to enable the NRC to make an enforcement decision.

In addition, since your facility has not been the subject of escalated enforcement actions within the last two inspections, and based on our understanding of your corrective action, a civil penalty may not be warranted in accordance with Section 2.3.4 of the Enforcement Policy. The final decision will be based on your confirming on the license docket that the corrective actions previously described to the staff have been or are being taken.

Enclosures Contain Sensitive Unclassified Non-Safeguards Information. When separated from enclosures, this transmittal letter is decontrolled.
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Before the NRC makes its enforcement decision, we are providing you an opportunity to either: (1) respond to the apparent violation addressed in this inspection report within 30 days of the date of this letter, or (2) request a PEC. If a PEC is held, the NRC will issue a press release to announce the time and date of the conference; however, it will be closed to public observation because security-related information will be discussed.

Please contact Tamara Bloomer at (630) 829-9627 within ten days of the date of this letter to notify the NRC of your choice. A PEC should be held within 30 days of the date of this letter.

If you choose to provide a written response, it should be clearly marked as a "Response to an Apparent Violation in Inspection Report No. 03007247/2011-002(DNMS); EA-11-175" and should include for each apparent violation: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken to avoid further violations; and (4) the date when full compliance will be achieved. Your response may reference or include previously docketed correspondence, if the correspondence adequately addressed the required response. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a PEC.

In addition, if you choose to provide a written response, please mark your entire response "Security-Related Information – Withhold from Public Disclosure under 10 CFR 2.390." In accordance with Title 10 of the Code of Federal Regulations (CFR) Section 2.390(b)(1)(ii), the NRC is waiving the affidavit requirements for your response to this letter. However, to the extent possible, your response should not include any personal privacy, proprietary, or safeguards information.

If you choose to request a PEC, the conference will afford you the opportunity to provide your perspective on the apparent violation and any other information that you believe the NRC should take into consideration before making an enforcement decision. The topics discussed during the conference may include the following: information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned to be taken.

In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violation. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful. You can find the Information Notice on the NRC website at <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>. In addition, please be advised that the number and characterization of any apparent violations may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

In addition to the apparent violation, the NRC has determined that Severity Level IV violations of NRC requirements occurred. These violations were evaluated in accordance with the NRC Enforcement Policy. The violations, which relate to the security of licensed material, are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described

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in detail in the subject inspection report. The violations are being cited because they were identified by the inspectors rather than by State of Missouri personnel.

The NRC has concluded that information regarding the reason for the Severity Level IV violations, the corrective actions taken and planned to correct the violations and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in the enclosed inspection report. Therefore, you are not required to respond to the Notice 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 will be available electronically for public inspection in the NRC Public Document Room or from 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>. However, the material enclosed herein contains Security-Related Information; its disclosure to unauthorized individuals could present a security vulnerability. Therefore, the material will not be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS). Security-Related Information is discussed in regulatory Information Summary RIS-2005-031, "Control of Security-Related Sensitive Unclassified Non-Safeguards Information" (ML053480073), which is available on the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions concerning this matter, please contact Tamara Bloomer of my staff at 630-829-9627.

Sincerely,

/RA Patrick Loudon for/

Anne T. Boland, Director
Division of Nuclear Materials Safety

Docket No. 030-07247
License No. 24-07974-03

Enclosures:
Notice of Violation (non-public)
IR 30307247/2011-002(DNMS) (non-public)

cc w/encls: James Kammerer, RSO
State of Missouri

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cc w/encls: James Kammerer, RSO
State of Missouri

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Letter to Thomas Mohr from Anne T. Boland dated August 9, 2011

SUBJECT: NRC REACTIVE INSPECTION REPORT NO. 03007247/2011-002(DNMS) –
STATE OF MISSOURI EMEGENCY MANAGEMENT AGENCY

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