



~~OFFICIAL USE ONLY – SECURITY-RELATED INFORMATION~~

**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**

Region III  
2443 Warrenville Road, Suite 210  
Lisle IL 60532-4352

May 8, 2013

EA-12-276

Mr. Michael D. Seamon  
Associate Vice President for Campus Safety  
University of Notre Dame du Lac  
Notre Dame, IN 46556

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL  
PENALTY – \$3,500; UNIVERSITY OF NOTRE DAME DU LAC; NRC  
ROUTINE INSPECTION REPORT NO. 03000694/2012001(DNMS)

Dear Mr. Seamon:

This refers to the U.S. Nuclear Regulatory Commission (NRC) routine inspection conducted on November 29 and 30, 2012, at your facilities located in Notre Dame, Indiana, with continued in-office review through January 24, 2013. The purpose of the inspection was to review licensed activities to ensure that they were being performed in accordance with NRC requirements. During the inspection, security-related apparent violations of NRC requirements were identified. The significance of the issues and the need for lasting and effective corrective actions were discussed with you at the inspection exit meeting on January 24, 2013. The NRC provided you the details of the inspection in NRC Inspection Report No. 03000694/2012001(DNMS) dated February 8, 2013.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violations identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter dated February 13, 2013, you stated that you would provide a written response to the apparent violations within 30 days of the date of your letter. On March 6, 2013, you provided a written response to the apparent violations and on March 21, 2013, you provided a supplemental response.

Based on the information developed during the inspection and the information you provided to the NRC in your responses dated March 6 and 21, 2013, the NRC has determined that security-related violations of NRC requirements occurred. These violations are cited in the non-public Notice of Violation (Notice) provided in Enclosure 1, and the circumstances surrounding them are described in detail in the subject inspection report.

The enclosures contain Sensitive  
Unclassified Non-Safeguards Information.  
Upon separation, this cover letter is  
decontrolled.

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The violations are of concern to the NRC for the reasons discussed in non-public Enclosure 2. Therefore, the violations have been categorized, in accordance with the NRC Enforcement Policy, as Severity Level III violations. In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3,500 is normally considered for a Severity Level III violation.

Because your facility has been the subject of an escalated enforcement action within the last two inspections<sup>1</sup> in part for a similar issue, the NRC considered whether credit was warranted for both *Identification* and *Corrective Action* in accordance with the civil penalty assessment process described in Section 2.3.4 of the Enforcement Policy. As described in Enclosure 2, this assessment resulted in a proposed civil penalty of \$3,500.

If you disagree with this enforcement sanction, you may deny the violation, as described in the Notice, or you may request alternative dispute resolution (ADR) with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflict outside of court using a neutral third party. The technique that the NRC has decided to employ is mediation. In mediation, a neutral mediator with no decision-making authority helps parties clarify issues, explore settlement options, and evaluate how best to advance their respective interests. The mediator's responsibility is to assist the parties in reaching an agreement. However, the mediator has no authority to impose a resolution upon the parties. Mediation is a confidential and voluntary process. If the parties to the ADR process agree to use ADR, they select a mutually agreeable neutral mediator and share equally the cost of the mediator's services. Generally, the NRC is willing to discuss the resolution of three potential issues: 1) whether violations occurred; 2) the appropriate enforcement action; and 3) the appropriate corrective actions for the violation. Additional information concerning the NRC's ADR program can be found at <http://www.internal.nrc.gov/OE/ADR/post-invest-adr-home.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as an intake neutral. Intake neutrals perform several functions, including: assisting parties in determining ADR potential for their case, advising parties regarding the ADR process, aiding the parties in selecting an appropriate mediator, explaining the extent of confidentiality, and providing other logistic assistance as necessary. Please contact the ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing this issue through the ADR program. You may also contact Steven Orth, Enforcement Officer, at (630) 810-4370 for additional information. If you decide to pursue ADR, please contact Mr. Orth within 10 days of the date of this letter.

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations, and the date when full compliance was achieved, was adequately addressed on the docket in NRC Inspection Report No. 03000694/2012001(DNMS) dated February 8, 2013, and in your responses dated March 6 and 21, 2013. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective action or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice. Additionally, if you choose to respond, 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 (10 CFR) 2.390(b)(1)(ii), the NRC is waiving the affidavit requirements for any response to this

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<sup>1</sup> On October 30, 2009, the NRC issued a Severity Level III violation for a security-related issue identified during an August 2009 inspection at your facility (EA-09-211.)

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letter. However, to the extent possible, your response, if any, should not include any personal privacy, proprietary, or safeguards information.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will 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), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. However, because of the Security-Related Information contained in the enclosures, and in accordance with 10 CFR 2.390, copies of the enclosures will not be available for public inspection.

The enclosures must be protected from unauthorized disclosure. 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 or in ADAMS.

Sincerely,

***/RA by C. Pederson for/***

Charles A. Casto  
Regional Administrator

Docket No. 030-00694  
License No. 13-01983-15

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalty (Non-Public)
2. Discussion and Assessment of the Civil Penalty (Non-Public)

cc w/encls: Robert Zerr, Radiation Safety Officer  
State of Indiana

M. Seamon

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cc w/encls: Robert Zerr, Radiation Safety Officer  
State of Indiana

FILE NAME: G:\ORAI\IEICS\ENFORCEMENT\Cases\Enforcement Cases 2012\EA-12-276 Notre Dame IC\EA-12-276 Notre Dame draft final action SL III with CP non-public.docx

OFFICE	RIII	RIII	RIII	RIII	D:OE	D:OGC	RIII	RIII
NAME	Lougheed	Bloomer	Boland	Monteith	Zimmerman <sup>1</sup> TMarenchin	Spencer <sup>2</sup> BKlukan	Orth	Casto CPederson for
DATE	04/09/13	04/11/13	04/11/13	04/15/13	05/06/13	04/17/13	05/08/13	05/08/13

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1 OE concurrence received via e-mail from T. Marenchin on May 6, 2013

2 OGC "No legal objection" received via e-mail from B. Klukan on April 17, 2013

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Letter to Michael D. Seamon from Charles A. Casto dated May 8, 2013

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY  
– \$3,500; NRC ROUTINE INSPECTION REPORT NO. 03000694/12001(DNMS);  
UNIVERSITY OF NOTRE DAME DU LAC

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