



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

February 13, 2019

IA-18-043

Mr. Randy Bethea
[HOME ADDRESS DELETED]
UNDER 10 CFR 2.390(a)]

SUBJECT: ORDER PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITIES

Dear Mr. Bethea:

The enclosed Order is being issued because the U.S. Nuclear Regulatory Commission (NRC) has determined that you, as a former radiographer employed by Mistras Group, Inc. (Mistras), engaged in deliberate misconduct when you radiographed your hand. Specifically, while employed by Mistras, you deliberately failed to use iridium-192 for the purpose of radiographic operations as authorized by a license issued to Mistras and contrary to Title 10 of the *Code of Federal Regulations* (10 CFR) 30.34(c), which limits the use of radioactive materials to the purposes in the license. Your actions violated the NRC's deliberate misconduct rule, 10 CFR 30.10(a)(1), which prohibits employees from engaging in deliberate misconduct that causes a licensee to be in violation of any NRC requirement. Your deliberate actions caused Mistras to be in violation of 10 CFR 30.34(c) and License Condition 9.A of its license. A copy of the enforcement action issued to Mistras is enclosed.

Because of your action described above, the NRC lacks the requisite reasonable assurance that you are willing to comply with NRC requirements and has determined that you should be prohibited from engaging in licensed activities. Consequently, for a period of one year from the effective date of the enclosed Order (as defined in Section IV of the Order), you will be prohibited from engaging in NRC-licensed activities that are conducted pursuant to a specific or general license issued by the NRC. During this one-year prohibition you cannot perform, supervise, assist, or otherwise engage in: (1) industrial radiographic operations for an NRC licensee; (2) industrial radiographic operations for an Agreement State licensee that are conducted under an NRC general license granted pursuant to 10 CFR 150.20; or (3) any other licensed activity in NRC jurisdiction. In addition, for a period of three years from the effective date of the enclosed Order, you will be prohibited from leading, supervising, or directing radiographic operations for an NRC licensee or for an Agreement State licensee that is working under a NRC general license.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Order shall be subject to criminal prosecution as set forth in that section. Violation of this Order may also subject the person to civil monetary penalty.

In accordance with 10 CFR 2.202, you are required to respond to the enclosed Order within 30 days of issuance and should follow the instructions specified in the enclosed Order when preparing your response. If you have additional information that you believe the NRC should

consider, you may provide it in your response to the Order. The NRC will use your response, in part, to evaluate the appropriateness of the enforcement action as well as whether further enforcement action is necessary to ensure compliance with regulatory requirements. To the extent possible, your response should not include any personal, privacy, proprietary or safeguards information so that it can be made available to the Public without redaction.

The NRC also includes significant enforcement actions on its Web site at

<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Instead of providing a response to the Order, you may request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve this issue. This request must also be made within 30 days of issuance of the Order. 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. Additional information concerning the NRC's program is described in the brochure NUREG/BR-0317, Revision 1, and can be obtained at

<http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict

Resolution at Cornell University has agreed to facilitate NRC's program as an intake neutral.

Please contact the Institute on Conflict Resolution at (877) 733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through the ADR program. In addition, if you choose this option, also please contact Jamnes Cameron at (630) 810-4373 within 10 days of the date of this letter.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be made available electronically for Public inspection in the NRC Public Document Room and from the NRC's Agencywide Document Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Because this letter references and encloses information related to enforcement action against an individual, this letter and its enclosures will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC's Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Questions concerning this Order should be addressed to Jamnes Cameron, who can be reached at (630) 810-4373.

Sincerely,

/RA/

George A. Wilson
Acting Director, Office of Enforcement

Enclosures:

1. Order Prohibiting Involvement in
NRC-Licensed Activities
2. Letter to Mistras Group, Inc.
Notice of Violation

cc w/encls:

State of Texas

State of Wyoming

Letter to Randy Bethea from George Wilson dated February 13, 2019

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DATE	1/17/19	1/18/19	1/18/19	1/25/19

OFFICE	OGC	RIII	RIII	OE	
NAME	Gamin (NLO)	Cameron	Roberts	Peralta	
DATE	1/24/19	1/22/19	1/8/19	1/28/19	

OFFICIAL RECORD COPY

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

In the Matter of
Randy Bethea

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IA-18-043

**ORDER PROHIBITING INVOLVEMENT IN
NRC-LICENSED ACTIVITIES**

I

At the time of the incident described below, Mr. Randy Bethea was employed as a radiographer at Mistras Group, Inc., (Mistras or licensee) located in Burr Ridge, Illinois. Mistras holds License No.12-16559-02, as amended on October 31, 2018, by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 34 of Title 10 of the *Code of Federal Regulations* (10 CFR). The license authorizes radiographic operations in accordance with the conditions specified in the license.

II

On September 8, 2017, a Sinclair Oil Refinery (Sinclair) quality assurance department employee was reviewing production radiography film packets provided by a Mistras employee and identified a radiograph of a human hand. Sinclair staff notified Mistras management personnel of the radiograph, who verified it was a radiograph of a hand. On the day the radiograph was submitted to Sinclair staff, only two Mistras employees were at the Sinclair facility. In a written report, dated October 2, 2017, Mistras' corporate radiation safety officer notified the NRC of an industrial radiographer possibly exceeding the annual occupational dose limit in 10 CFR 20.1201(a)(1)(i). The written report also indicated that the radiographer admitted to intentionally

radiographing his own hand. The NRC staff reviewed the written report and noted several items concerning NRC regulations for conducting radiographic operations that required further agency review.

The NRC Office of Investigations (OI), Region III Field Office, initiated an investigation to determine whether: (1) a radiographer willfully failed to use iridium-192 for industrial radiography as authorized by the NRC license issued to Mistras while at a refinery in Sinclair, Wyoming; (2) a radiographer willfully conducted radiographic operations without being accompanied by another qualified radiographer or an individual who has met the necessary training requirements; (3) Mistras willfully permitted an individual to act as a radiographer during radiographic operations without wearing on the body a personal dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program processor; (4) a radiographer willfully failed to conduct a survey of the radiographic device after each radiographic exposure to determine that the sealed source had been returned to its shielded position; and (5) Mistras willfully failed to control the annual occupational dose of an individual adult to 5 rem.

The Region III OI interviewed a number of individuals including: (1) Sinclair quality assurance staff; (2) Mistras staff and management; (3) Mr. Bethea, the Mistras radiographer assigned to the Sinclair site at the time of the hand radiography; and (4) the radiographer's assistant assigned to the Sinclair site at the time of the hand radiography. During the OI investigation, Mr. Bethea admitted to radiographing his own hand. The individual indicated that he took two radiographs of his hand. Mr. Bethea indicated that he took the radiographs of his hand by himself, without the knowledge of the radiographer's assistant. Mr. Bethea also indicated that he did not intend to provide the hand radiographs to anyone. However, one of the hand

radiographs was in the packet of radiographs provided to Sinclair quality assurance staff on September 8, 2017.

During the OI investigation, Mr. Bethea indicated that he wore his personal dosimeter and performed a survey of the guide tube and exposure device after each radiographic exposure of his hand. The results of the OI investigation also indicated the licensee had originally calculated that Mr. Bethea had received an occupational dose of 5.311 rem for the year. However, after the licensee performed a recalculation of Mr. Bethea's exposure using the actual strength of the source used for the hand radiographs, the licensee determined that the radiographer's occupational dose was 4.897 rem for the year.

In a letter received by the NRC on January 3, 2019, Mr. Bethea stated the reason for the violation was too much stress from personal issues at home including a sick family member. Mr. Bethea also stated there was no excuse for his actions and that corrective actions included not working away from home for extended periods of time and stating that any blatant disrespect to the NRC regulations will never happen again.

Based on a review of the OI report, training records, statements from the radiographer, and statements from Mistras personnel, it appears that on September 8, 2017, Mr. Bethea deliberately radiographed his own hand, a use not authorized by Condition 9.A of Mistras' NRC license and contrary to 10 CFR 30.34(c), which limits the use of radioactive material to the purposes authorized in the license.

III

Based on the above, the NRC has concluded that Mr. Randy Bethea engaged in deliberate misconduct in violation of 10 CFR 30.10(a)(1) that caused Mistras to be in violation of 10 CFR 30.34(c) and License Condition 9.A of its license. The NRC must be able to rely on the licensee and its employees to comply with NRC requirements. Mr. Bethea's actions raised serious doubt as to whether he can be relied upon to comply with NRC requirements.

Consequently, the NRC lacks the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements, and that the health and safety of the public will be protected if Mr. Bethea were permitted at this time to be involved in NRC-licensed activities. Therefore, the public's health, safety, and interest require that Mr. Bethea be prohibited from any involvement in NRC-licensed activities for a period of one year from the date of this Order. Additionally, Mr. Bethea is prohibited from acting as the lead radiographer, or from supervising or directing radiographic operations, for a period of three years from the date of this Order. Finally, Mr. Bethea is required to notify the NRC of his first employment in NRC-licensed activities for a period of one year following the one-year prohibition period for having any involvement in NRC licensed activities.

IV

Accordingly, pursuant to sections 81, 161b, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, and 10 CFR 30.10, IT IS HEREBY ORDERED THAT:

1. Mr. Randy Bethea is prohibited for one year from the date of this Order from engaging in, supervising, directing, or in any other way conducting NRC-licensed activities.

NRC-licensed activities are those activities that are conducted pursuant to a specific or

general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted in the NRC's jurisdiction pursuant to the authority granted by 10 CFR 150.20.

2. Mr. Randy Bethea is prohibited for three years from the date of this Order from acting as the lead radiographer, or from supervising or directing radiographic operations that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted in the NRC's jurisdiction pursuant to the authority granted by 10 CFR 150.20.
3. If Mr. Randy Bethea is currently engaged in NRC-licensed activities with any licensee, he must immediately cease those activities, and inform the NRC of the name, address and telephone number of the licensee, and provide a copy of this Order to the licensee.
4. For a period of one year after the one-year period of prohibition for conducting NRC-licensed activities has expired, Mr. Randy Bethea shall, within 20 days of acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555-0001, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the notification, Mr. Bethea shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, or designee, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Bethea of good cause.

V

In accordance with 10 CFR 2.202, Mr. Bethea must submit a written answer to this Order under oath or affirmation within 30 days of its publication in the *Federal Register*. Mr. Bethea's failure to respond to this Order could result in additional enforcement action in accordance with the Commission's Enforcement Policy. Any person adversely affected by this Order may submit a written answer to this Order within 30 days of its publication in the *Federal Register*. In addition, Mr. Bethea and any other person adversely affected by this Order may request a hearing on this Order within 30 days of its publication in the *Federal Register*. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-001, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene (hereinafter "petition"), and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended by 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) calendar days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to: (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative)

must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's Public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an Order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click "Cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or Order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the *Federal Register* and served on the parties to the hearing.

If a person (other than Randy Bethea) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. In the absence

of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final thirty (30) calendar days from the date of issuance of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

George A. Wilson, Acting Director
Office of Enforcement

Dated this 13th day of February 2019