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February 8, 2019

Andrea Kock, Director
Division of Materials Safety, Security, State and Tribal Programs
Office of Nuclear Material Safety and Safeguards

Subject: Response to U.S. Nuclear Regulatory Commission Investigation Report No. 1-2017-017,
Inspection report 030-39036/2018-001, Solis Tek Incorporated.

Dear Ms. Kock,

In response to the Commission Investigation Report referenced herein, we wish to respond to each of the apparent violations below, not with denial or argument, but rather with causes and explanations of why each event happened, and more importantly, what corrective actions have been taken.

I feel compelled to first express a thank you to Inspector Randy Erickson who, through his efforts above and beyond expectations, helped, instructed, motivated, trained, explained and occasionally persuaded our staff into an awareness of the seriousness and responsibilities of the compliance requirements.

I also need to first address the "Factual Summary of the Office of Investigations of Report 1-2017-017" (Enclosure 3), attached to this letter for reference as this investigation cuts to the root problem and the core of our response to several of the apparent violations.

As the investigator concluded, based upon the evidence and many depositions he conducted, the local facility manager of the East Coast Facility, took it upon himself to try to respond to the many NRC demands to cease distribution of the lamps/bulbs containing Kr-85 without notification to senior management of the Company.

To begin, as was explained to the investigator, neither anyone in the company, at any level, nor the Chinese supplier at any time was aware of the requirement for licensing any of the products being imported, or for the storage of the bulbs until one shipment was held by customs clearance pending obtaining a license. The Company acknowledges that ignorance is no defense and is just trying to relate the sequence of events.



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That East Coast Facility Manager (ECFM) then took it upon himself to obtain both the possession license from the NJ Bureau of Environmental Radiation as well as the distribution exempt license from the NRC and name himself as the Radiation Safety Officer including taking the required training and filing the forms. During this entire process, this ECFM decided to handle all of the communications and regulatory issues on his own accord without communicating the needs and directions to the owners or executive officers of the Company who were all West Coast based.

Further, in February 2017, the NRC notified the company on more than one occasion to cease distribution until a proper NRC license was obtained. This ECFM even admitted he ignored the cease order and did not notify Company management until the 3rd demand to cease at which time the Company took immediate action including hiring an independent consultant specializing in such matters, assigning a senior officer to oversee the compliance, and subsequently terminated the employment of the ECFM. This ECFM essentially ran a crew of 2 people (including himself) responsible for east coast order fulfillment and took charge and responsibility for actions far exceeding his authority and causing the Company to be in violation of CFR 30.10 and CFR 30.3(a) and CFR 30.15(b) as the investigator summarized.

With respect to each of the apparent violations:

- 1- **APPARENT VIOLATION 1:** Willful failure to obtain NRC licensing authorization distribution of licensed material.

RESPONSE- The Company was ignorant as to the requirement for licensing by the NRC. The local facility manager in New Jersey mistakenly understood that the NJ Bureau of Environmental Radiation license was sufficient, ignored the inquiries of the NRC, and took it upon himself to "handle" the situation (his words). Certainly, the Company was negligent and lacked oversight, but as a Company, the actions were not willful but for the account of one rogue employee who was subsequently discharged, and the facility closed.

- 2- **APPARENT VIOLATION 2:** As to the non-willful failure to obtain a NRC license authorizing distribution of a licensed material to unlicensed persons prior to beginning distribution:

RESPONSE- The Company appreciates the recognition by the NRC that it did not willfully try to circumvent any agency or regulation but did so out of ignorance and neglect, not from any intention to circumvent the NRC. The confusion was caused by lack of oversight and communication from the point person, the facility manager, dealing with the controlled material regulatory issues (bulbs) and did not interpret that the same licensing would be required in the West Coast operation and concluding on his own that the one license in the East Coast facility would suffice. Clearly this is again ignorance or inattention, and certainly



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lack of oversight, and the Company appreciates that this was not an intentional overt act on behalf of the Company, again, just one overzealous employee in over his authority level.

- 3- **APPARENT VIOLATION 3:** Non-willful failure to receive authorization to import radioactive material into the United States by a general or specific license under the regulations in title Code of Federal Regulations (10 CFR) Part 110, prior to importing such material.

RESPONSE- The company had received prior shipments to its distribution facility over a several months period of time without incident or failure to release through customs. The Chinese manufacturer who was certainly more knowledgeable in such matters, offered no guidance or instruction as to any regulatory issue, and, had never encountered such issues in previous distributions and exports to the USA. When that certain shipment was held for further inspection, both the Chinese supplier as well as the Company were caught by surprise, again out of ignorance, and did get the NJ Bureau of Environmental Radiation license as required but was not informed about the NRC license requirement until later. Again, the Company appreciated that this investigation reflects that this action was not intentional not willful.

- 4- **APPARENT VIOLATION 4-** Non-willful failure to submit a timely annual report for 2017 on or before January 21, 2018, which contained complete and accurate information.

RESPONSE- The reporting was again under the direction of the RSO/ East Coast facility manager who clearly did not read the requirements nor pass along to management the outline or urgency of the request. Once the understanding of 10 CFR 32.16(a) and (c)(1), the information was requested but the Company did not have a computerized accounting system for receipts or shipments by location, by products which turned into an arduous process of manually calculating the bulb inventory shipments and receipts. The incomplete and initial incorrect information, subsequently restated, was the result of an audit-level effort to come into compliance and the 2018 report has been filed as required. Again, the company appreciated the notice of non-willful actions but rather challenges in obtaining information.

As to corrective actions that the Company has taken since these violations have taken place include:

- 1- The Company has determined that these incidents were only allowed to occur, and be ignored for two primary reasons:
 - a. Lack of oversight for a remote distribution facility



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COMPANY ACTION- The East Coast facility was closed, the 2 employees terminated, and a corporate decision was made not to ever open another facility unless a senior executive is directly in-charge and on site.

- b. Immediate attention was not provided, and the seriousness of the violations was not appreciated or respected.

COMPANY ACTION- The corporate policy as to receipt of privileged, certified, governmental, or official mail or communications is to be immediately be provided to a senior executive officer of the Company upon receipt.

- 2- These violations happened because of lack of oversight of department heads and other mid-level managers who were not aware of, nor trained in the safety and security procedures required to handle bulbs containing regulated materials.

- a. **COMPANY ACTION-** The Company conducted a Companywide awareness program as to the proper handling and safety issues surrounding the handling and shipping of the bulbs accented by the posting at ever point of ingress and egress and employee break areas appropriate signage.
- b. **COMPANY ACTION-** As part of the new employee indoctrination and hiring process, each new employee, at EVERY level, is trained and made aware of the safety and handling procedures of the bulbs containing the Kr-85.
- c. **COMPANY ACTION-** The owners and executive staff of the Company have decided that the Radiation Safety officer should be the Co-Founder and Executive Vice President of the Company who has now also completed the training certification course. The Company believes that a senior management responsible party will reflect to all the employees the seriousness and commitment to meet the standards.

- 3- There was a previous lack of understanding of the safety and handling protocols as well as the dangers in improper handling of both current inventory as well as broken bulbs.

- a. **COMPANY ACTION-** The company received verification of the handling procedures, confirmation of the dissipation of the gas upon breakage, and instruction as to handling any broken bulbs, and have disseminated that information to every material handling person employed by the Company.

- 4- The staff was previously undertrained as to safety and handling requirement and procedures.

- a. **COMPANY ACTION-** The new RSO, the EVP of the Company, has recently been assigned the RSO duties, and has, within the last few months taken the proper training and certification course. This RSO, also co-founder of the company, is the most technically knowledgeable person in the company and takes his duties very seriously.



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- 5- Previously, any violation of the regulations was not openly discussed, and kept from senior management (as in the East Coast facility manager Investigation).
 - a. **COMPANY ACTION-** The Company uses the prior violation incidents as a learning tool to emphasize the seriousness with which the company takes these violation, including the reminder that prior "bad-acts and actors" were terminated and a whole distribution facility was closed.
- 6- Previously there was a lack of in-house Company expertise as to the safety and handling procedures, as well as the regulatory requirements.
 - a. **COMPANY ACTION-** The Company has not only dedicated the EVP/Co-founder as the RSO, but has also engaged the Manager of Special Projects as responsible for staying current on regulatory compliance and additional oversight management. Both personnel report to the Company Chief Operating Officer for oversight.
- 7- The former RSO did not really have the authority, independence, or senior management support to effectively make determinations or take actions without consent of management.
 - a. **COMPANY ACTION-** The Executive Vice President/ RSO, has received a clear and empowering mandate from both the CEO and COO (who he reports to) that the RSO has independent authority to take whatever proactive or current action required to stay informed and in compliance with all NRC (and CDPH) regulations.
- 8- Previously, employees were not encouraged or required to report any apparent safety or other violations but rather relied on management to recognize safety and handling issues.
 - a. **COMPANY ACTION-** Per the instructions in the Employee Handbook and at new employee indoctrinations, each employee is responsible for, and instructed to bring to management attention any safety related issues regarding material handling or un-safe conditions or acts.

In summary of corrective and proactive actions taken by the Company, the root cause of most of the problems were:

- 1- Lack of oversight by senior management
- 2- Lack of training and education
- 3- Lack of communication to the employees at every level
- 4- Lack of taking the regulatory and safety requirements seriously at the senior management level.



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Through the actions cited above, the Company believes it has created a new healthy environment, a new culture of awareness and understanding, and is committed to not repeat or make the same mistakes again.

Thank you for allowing me to state our case and hopefully you will consider our positive actions in your final adjudication of this investigation.

Respectfully,

A handwritten signature in black ink, appearing to read "Tiffany Davis", with a long horizontal flourish extending to the right.

Tiffany Davis, COO

Cc: Mr Hipolito Gonzales
Mr. Randy Erickson