



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV

611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064

DEC 28 1992

Docket No. 150-00030
General License (10 CFR 150.20)
EA 92-216

Western Technologies, Inc.
ATTN: Mr. Craig Johnson
Vice President
P.O. Box 21387
Phoenix, Arizona 85036

Gentlemen:

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION
OF CIVIL PENALTY - \$8,000 (NRC INSPECTION
REPORT 150-00030/92-01)

This is in reference to the NRC's inspection of Western Technologies, Inc. (Western Technologies), during radiographic operations performed at the White Sands Missile Range, New Mexico, on October 28, 1992. The results of this inspection were discussed with Western Technologies' former radiation safety officer on November 2, 1992, and were documented in a report issued on November 17, 1992.

NRC's inspectors observed Western Technologies personnel performing radiography without wearing alarm ratemeters as required by 10 CFR 34.33(a). Based on the significance of this violation, an enforcement conference was held between Western Technologies and NRC personnel on December 1, 1992, in NRC's Arlington, Texas office. A list of attendees is enclosed.

Western Technologies, which holds New Mexico and Arizona State licenses for its radiography activities, was performing licensed activities in NRC jurisdiction pursuant to the general license authorized by NRC in 10 CFR 150.20. The general license authorizes the performance of radiography in accordance with the terms and conditions specified in a specific license issued by an Agreement State and with the NRC regulations listed in 10 CFR 150.20(b).

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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bcc w/enclosures:

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12/17/92

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49 CFR 172.101, radioactive material is classified as hazardous material.

49 CFR 172.203(c)(2) requires that the letters "RQ" (Reportable Quantity) be entered on the shipping paper either before or after the basic description required for each hazardous substance.

Contrary to the above, on October 28, 1992, while conducting radiographic operations at the White Sands Missile Range, New Mexico, the Licensee transported approximately 22 curies of iridium-192, a reportable quantity, and the letters "RQ" were not entered either before or after the description of the hazardous material on the shipping paper that accompanied the shipment.

This is a Severity Level IV violation (Supplement V).

- B. 10 CFR 150.20(b)(4) requires that the licensee comply with all terms and conditions of the specific license issued by an Agreement State except such terms or conditions as are contrary to the requirements of 10 CFR Part 150.

License Condition 11.B of the Licensee's State of New Mexico Radioactive Material License (Number IR244-21) specifies, in part, those individuals authorized to act as radiographers or radiographer's assistants as defined in Part 5-120, New Mexico Radiation Protection Regulations.

Contrary to the above, on October 28, 1992, while conducting radiographic operations at the White Sands Missile Range, New Mexico, the Licensee permitted an individual to act as a radiographer who was not listed as an authorized radiographer or radiographer's assistant on the Licensee's State of New Mexico Radioactive Material License (Number IR244-21).

This is a Severity Level V violation (Supplement VI).

Pursuant to the provisions of 10 CFR 2.201, the Licensee is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice of Violation and Proposed Imposition of Civil Penalty (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each alleged violation: (1)

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admission or denial of the alleged violation, (2) the reasons for the violation if admitted, and if denied, the reasons why, (3) the corrective steps that have been taken and the results achieved, (4) the corrective steps that will be taken to avoid further violations, and (5) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an order or demand for information may be issued as to why the license should not be modified, suspended, or revoked or why such other action as may be proper should not be taken. Consideration may be given to extending the response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Within the same time as provided for the response required above under 10 CFR 2.201, the Licensee may pay the civil penalty by letter addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a check, draft, money order, or electronic transfer payable to the Treasurer of the United States in the amount of the civil penalty proposed above or may protest imposition of the civil penalty, in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within the time specified, an order imposing the civil penalty will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violation listed in this Notice, in whole or in part, (2) demonstrate extenuating circumstances, (3) show error in this Notice, or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty, in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the factors addressed in Section VI.B.2 of 10 CFR Part 2, Appendix C should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty due which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or

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Enclosure 2

Attendance List
December 1, 1992, Enforcement Conference
(EA 92-216)

Western Technologies, Inc.

Craig Johnson, Vice President & Managing Director
Alex Zuran, Director, NDT

Nuclear Regulatory Commission

John Montgomery, Deputy Regional Administrator
Johns Jaudon, Deputy Director, Division of Radiation Safety
& Safeguards (DRSS)
William Brown, Regional Counsel
Chuck Cain, Chief, Nuclear Materials Inspection Section
(NMIS), DRSS
Mark Shaffer, Radiation Specialist, NMIS, DRSS
Gilbert Guerra, Radiation Specialist, NMIS, DRSS
Gary Sanborn, Regional Enforcement Officer
Joe DelMedico, Enforcement Specialist, Office of Enforcement
(by telephone)

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mitigated, may be collected by civil action pursuant to Section 234(c) of the Act, 42 U.S.C. 2282c.

The response noted above (Reply to Notice of Violation, letter with payment of civil penalty, and Answer to a Notice of Violation) should be addressed to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011.

Dated at Arlington, Texas
this 28th day of December 1992

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In addition to finding Western Technologies personnel conducting radiography without required alarm ratemeters, NRC's inspectors found that the radiographers did not recharge their pocket dosimeters prior to beginning work, also a violation of 10 CFR 34.33(a); that the radiographers were not listed on the New Mexico license utilized by Western Technologies in gaining the authority to work in NRC jurisdiction; and that the shipping papers used in transporting the radiographic equipment did not include certain required information.

With regard to the failure to wear alarm ratemeters, NRC concludes that the radiographers knowingly violated this requirement because they acknowledged that they were aware of the requirement and that they had been aware of the fact that they did not have alarm ratemeters at the job site when they began radiographic operations. This violation, which was the focus of the enforcement conference discussions, is a serious violation of NRC requirements. This requirement was adopted to prevent significant radiation exposures by providing greater assurance that radiography personnel do not expose themselves or others to unexpectedly high radiation fields. The seriousness of this violation is compounded by the fact that it was committed knowingly.

The NRC recognizes that, as a result of the NRC inspection, Western Technologies personnel discontinued radiography operations at White Sands until alarm ratemeters were obtained, and that Western Technologies later took disciplinary action against the individuals involved. During the enforcement conference, you indicated that complacency for safety requirements may have contributed to the occurrence of this violation and that company management may not have been placing the appropriate emphasis on strict compliance with such requirements. The NRC acknowledges your efforts to eliminate this complacent attitude. Important among these efforts is the message you have conveyed in your training sessions following the NRC inspection. Personnel have been instructed that radiography work is not to be performed unless all required safety equipment is present and that employees should contact the home office to obtain any necessary equipment before beginning work.

In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy) 10 CFR Part 2, Appendix C, the failure to wear alarm ratemeters during radiography operations has been categorized as a Severity Level II violation. This type of violation is normally classified at Severity Level III; however, the severity level was increased in this case because the radiographers knowingly violated this requirement.

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To emphasize the seriousness of willful violations, the importance of strict compliance with safety requirements, and the importance of developing mechanisms to ensure that company personnel are complying with such requirements, I have been authorized, after consultation with the Director, Office of Enforcement, and the Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the amount of \$8,000 for the Severity Level II violation described above and in the Notice.

The base value of a civil penalty for a Severity Level II violation is \$8,000. The civil penalty adjustment factors in Section VI.B.2 of the Enforcement Policy were considered and, on balance, resulted in no adjustment. In considering these factors, the NRC concluded that your corrective actions warranted a reduction in the penalty by 50 percent of the base value. However, this was offset by the fact that the violation was identified by the NRC as opposed to having been discovered by Western Technologies through its own audit programs. The remaining civil penalty adjustment factors were considered, but did not result in any further adjustments.

The violations involving incomplete shipping papers and the use of personnel not listed on your New Mexico license have been classified at Severity Level IV and V, respectively, and have not been assessed a civil penalty.

Western Technologies is 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 taken and any additional actions you plan to prevent recurrence. In addition, you should describe the actions that Western Technologies will take before working in NRC jurisdictions to assure that you fully understand and comply with current NRC requirements; and to assure that your employees comply with all NRC requirements, not just those that they elect to follow. After reviewing your response to this Notice, including your proposed corrective actions and the results of future inspections, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be placed in the NRC Public Document Room.