

**Raytheon**  
Engineers & Constructors

JI-96-62272

02 August 1996

Contract No. DACA87-86-C-0098  
JACADS Project 62770600

Regional Administrator  
U.S. Nuclear Regulatory Commission Region IV  
611 Ryan Plaza Dr., Suite 400  
Arlington, TX 76011

Attention: Mr. Ross A. Scarano, Director  
Division of Nuclear Materials Safety

Subject: **REPLY TO A NOTICE OF VIOLATION**

Reference: 1. Nuclear Regulatory Commission Inspection Report 030-31456/ 96-01 and Notice of Violation  
2. Nuclear Materials License #04-29008-01 / Docket #030-31456  
3. JACADS Memo Number 92-2351, Dated 17 March 1992, Subject: RELOCATION OF NUCLEAR GAUGE (JAM SENSOR)  
4. 10 CFR 20.1101(c)

Dear Mr. Scarano:

This is in response to your June 12, 1996 letter and enclosed Inspection Report 030-31456/96-01 and Notice of Violation ("Report and Notice") in the matter of (1) an incident on March 8, 1992 involving two source holders used in RE&C's operations as chemical demilitarization contractor at Johnston Atoll and (2) an allegation in the Report and Notice of RE&C's failure to review the content and implementation of its radiation protection program at Johnston Island.

I. In regard to the March 8, 1992 incident, the Report and Notice alleges that:

"Two Ohmart SR-A source holders containing 10 millicuries each of cesium-137 sealed sources were removed from service and relocated by individuals that had not successfully completed the Ohmart Corporation Radiation Safety Course specifically covering these activities and had not been specifically licensed by the Commission or an Agreement State to perform such services."

The Report and Notice notes that RE&C's License 04-29008-01 requires:

"That the relocation and removal from service of devices containing sealed sources be performed only by individuals who had successfully completed the Ohmart Corporation Radiation Safety Course specifically covering these activities and who have been designated by the Radiation Safety Officer, or by other persons specifically licensed by the Commission or an Agreement State to perform such services."

II. Your Report and Notice states that RE&C Inc. failed to review the current implementation of its Radiation Protection Program annually following the NRC's passage of a regulation in 10 CFR Section 20.1101(c) on January 1, 1994.

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**RE&C's Response**

- I. Based on the length of time that has elapsed since the March 8, 1992 incident and the fact that recent interviews with individuals that were directly involved did not reveal any new information, we do not have anything further to report on the specific circumstances of this event beyond what has already been submitted to the Commission in a memorandum dated 17 March 1992 (reference #3). It is very difficult, if not impossible, to defend against the allegation after more than four years. RE&C thus must take exception to the Report and Notice and alleged violation on the grounds that any finding of violation by the NRC would be a violation of due process and exceed the agency's statutory authority. It is more purposeful to convey that we believe the subsequent actions that were taken in response to this situation have been effective in preventing its recurrence.

The March 8, 1992 incident occurred nearly four-and-a-half years ago. Since then, RE&C has operated the Johnston Atoll Chemical Agent Disposal System (JACADS) facility for over 1600 days, having processed over 50,000 M-55 rockets, 66,000 projectiles, 5600 bombs, and 130 projectiles. RE&C has had a total of eight employees trained by the Ohmart Corporation who can lawfully remove the Ohmart SR-A source holders under the terms of our nuclear materials license. RE&C has had these employees assigned to demilitarization operations on all shifts, 24 hours per day. At the present time, the Ohmart-trained individuals are all representatives of the Raytheon Safety Department, whose daily duties include reviewing work activities which are performed on the furnace system serviced by the nuclear gauges. Since March 8, 1992 the Ohmart devices were removed from service seven times and each time only by persons who had been trained by the Ohmart Corporation, as required by License Number 04-29008-1. Thus, RE&C has consistently been in compliance with the portion of the license limiting the type of person who can remove the devices, for the entire period since March 8, 1992 to the present.

Additional measures that were taken to disseminate information about the sources and their specific license requirements, included plant-wide training sessions for the general workforce given in the form of weekly employee safety meetings, and a Radiation Safety Training Course given to employees who routinely work in the vicinity of the source holders. Signs have been posted on the source holders informing individuals that if it is necessary to lock out or remove the source holder, a Site Safety Representative (who is an Ohmart-trained individual) is to be contacted. These efforts have helped produce the 100% compliance record since March 8, 1992 under the license.

- II. In regard to the allegation that RE&C failed to review the content and implementation of the Radiation Protection Program since January 1, 1994, this requirement had been met when our Nuclear Materials License was renewed in January of 1995. In December of 1994, the following specific program elements were assessed and documented - detailed information was compiled, analyzed and formatted - as part of the license renewal package sent to the NRC's Walnut Creek Field Office:

- Current License Requirements,
- The location, type, and use of the specific source material,
- The qualifications of the individuals responsible for the Radiation Safety Program,
- The training provided to employees,
- The Radiation Safety Program,
- Personnel-monitoring requirements and equipment,
- Radiation detection instrumentation,
- Leak-test procedures,
- Lock-out procedures, and
- Waste management.

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Program assessments were also conducted by the designated RSO on September 7, 1995 and on March 8, 1996 when major elements of the program were implemented during the semi-annual leak testing and shutter check of each of the source holders. These assessments included:

- Source location documentation,
- Personnel monitoring,
- The use of radiation detection instrumentation,
- Lock-out procedures,
- Leak-test procedures,
- Radiation surveys, and
- Documentation of the survey results.

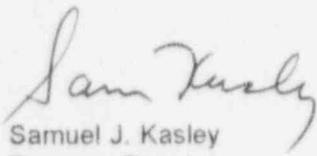
Since the time of the NRC inspection visit by Mr. Garcia in May 1996, the Radiation Protection program has also been audited by an independent certified quality auditor.

Conclusion

- I. As to the alleged violation resulting from the March 8, 1992 incident, RE&C has been prejudiced by the NRC's long delay in acting; some 51 months elapsed between the incident and the Report and Notice. RE&C has been impeded in presenting an adequate defense by the unavailability of witnesses and failed memories of employees.
- II. As to the alleged violation that RE&C failed to review its program, for the reasons stated above, we believe there was no violation.

I hope this response is adequate to your needs. I am sure you will have questions and you can contact my deputy, Bernie Alexy, at (808) 621-3044, ext. 3787 (FAX 808-622-3707).

Very truly yours,



Samuel J. Kasley  
Program Director

SJK/BA/mlb

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