



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV

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

November 15, 1996

EA: 96-450

Mr. Neil J. Stodolski, President
NJS Engineering
P.O. Box 226
123 East Jackson, Suite
Spearfish, South Dakota 57783

SUBJECT: NRC INSPECTION REPORT 030-30133/96-01

Dear Mr. Stodolski:

On November 1, 1996, the NRC completed an inspection of activities conducted at your Spearfish, South Dakota, facility. The enclosed report presents the scope and results of that inspection. This reactive inspection was conducted in response to telephonic notification received from you on August 29, 1996, concerning a moisture/density gauge damaged by construction equipment at a temporary job site. At the conclusion of the inspection, the inspection findings were discussed with you during a telephonic exit briefing on November 1, 1996.

Based on the results of this inspection, an apparent violation was identified and is being considered for escalated enforcement action in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy) NUREG-1600. The apparent violation involved failure to maintain surveillance and control of a portable moisture/density gauge containing licensed material while the gauge was located in an unrestricted area. Specifically, a portable moisture/density gauge was stored in an unlocked case in an unlocked vehicle at a temporary job site, and the gauge user did not have the device under his immediate surveillance. As discussed with you during the telephonic exit briefing, the NRC normally considers failures to provide adequate security or surveillance of licensed materials that are stored or in use in unrestricted areas to be a significant concern. Ensuring that gauge users provide adequate surveillance of portable gauges while in use and take appropriate steps to secure them when not in use is of particular importance at construction sites.

The circumstances surrounding the apparent violation, the significance of the issues, and the need for lasting and effective corrective action were discussed with members of your staff at the inspection exit meeting on November 1, 1996. As a result, it may not be necessary to conduct a predecisional enforcement conference in order to enable the NRC to make an enforcement decision. However, a Notice of Violation is not presently being issued for these inspection findings. Before the NRC makes its enforcement decision, we are providing you an opportunity, within 30 days of the date of this letter, to either (1) respond to the apparent violations addressed in this inspection report or (2) request, within 7 days of the date of this letter, a predecisional enforcement conference.

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Your response should be clearly marked as a "Response to An Apparent Violation in Inspection Report No. 030-30133\96-01" and should include for each apparent violation: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. In presenting your corrective action, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violations. The guidance in the enclosed excerpt from NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION," may be helpful. Your response should be submitted under oath or affirmation and may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a predecisional enforcement conference.

If you choose not to provide a response and would prefer participating in a predecisional enforcement conference, please contact Linda L. Howell at (817) 860-8213 within 7 days of the date of this letter.

In addition, please be advised that the number and characterization of apparent violations described in the enclosed inspection report may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response will be placed in the NRC Public Document Room (PDR). To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction.

Should you have any questions concerning this inspection or the enclosed report, please contact Linda L. Howell at telephone number noted above.

Sincerely,



Ross A. Scarano, Director
Division of Nuclear Materials Safety

Docket: 030-30133
License: 40-26894-01

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Enclosures:

1. NRC Inspection Report 030-30133\96-01
2. NRC Enforcement Policy, NUREG-1600
3. NRC Information Notice 96-28

cc w/Enclosure 1:
State of South Dakota

bcc w/Encl.1 to DMB (IE07)

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