



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

February 19, 1997

EA 97-065

Mr. Warren L. Stevens, President
M&W Soils Engineering, Inc.
265 Main Street
Post Office Box 884
Charlestown, New Hampshire 03603

SUBJECT: NOTICE OF VIOLATION
(NRC Inspection Report No. 9999-0001/97-008)

Dear Mr. Stevens:

This letter refers to the NRC inspection conducted on January 30, 1997, at the above mentioned facility, of activities authorized by NRC general license granted to you pursuant to 10 CFR 150.20(a). During the inspection, an apparent violation of NRC requirements was identified. The violation involved performance of licensed activities in Vermont from approximately January 1, 1994, until December 12, 1996, without first filing the appropriate reciprocity forms with the NRC so as to provide notification that gauges possessed under your New Hampshire license would be used in Vermont, and, therefore, subject to NRC jurisdiction. A copy of the NRC inspection report is enclosed. In a telephone conversation between yourself and Ms. J. Johansen of my staff on February 11, 1997, you declined the offer to participate in a predecisional enforcement conference concerning the apparent violation and discussed your corrective actions to prevent recurrence of the problem.

The violation involving the failure to adhere to the reciprocity requirements is of significant concern to the NRC because the gauges were used at twelve sites in Vermont, including the Vermont Yankee Nuclear Power Station, without the NRC being aware of their use. Notification of the NRC is particularly important since the NRC, rather than the State of New Hampshire, regulates the use of the gauges in the State of Vermont. You indicated that in 1994 when licensee ownership changed through an amendment, no information on reciprocity was provided to you by the State of New Hampshire. Nonetheless, it is the responsibility of licensee management to be knowledgeable of the applicable regulations and to assure that these regulations are met. In view of the above, the failure to adhere to reciprocity requirements is classified as a Severity Level III problem in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy) NUREG-1600 and is set forth in the enclosed Notice of Violation (Notice). A copy of the Enforcement Policy is also enclosed.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$2,500 is considered for a Severity Level III violation. Because your facility has not been the subject of escalated enforcement actions within the last two years, the NRC considered whether credit was warranted for Corrective Action in accordance with the civil penalty assessment process

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in Section VI.B.2 of the Enforcement Policy. Credit for corrective actions is warranted because your corrective actions were both prompt and comprehensive. These actions included: (1) stopping all work in Vermont as soon as you were notified of the reciprocity requirements; and (2) requesting and obtaining information from the NRC regarding the filing for reciprocity.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

You are 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. 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, 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.

The response directed by this letter and the enclosed Notice are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, Pub. L. No. 96-511.

Sincerely,



Hubert J. Miller
Regional Administrator

Docket No. 9999-0001
New Hampshire License No. 264R

Enclosures:

1. Notice of Violation
2. NRC Inspection Report No. 9999-0001/97-008
3. NUREG-1600 (Enforcement Policy)

cc w/encls:
State of New Hampshire
State of Vermont

M&W Soils Engineering, Inc.

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