



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

August 31, 2007

Docket No. 03030019  
EA-07-174

License No. 45-24919-01

David Houser  
President  
Blakemore Construction Corporation  
Rockville Stone Quarry (Luck Stone Quarry)  
Rockville, VA 23261

SUBJECT: INSPECTION 03030019/2007001, BLAKEMORE CONSTRUCTION CORPORATION, ROCKVILLE STONE QUARRY (LUCK STONE QUARRY), ROCKVILLE, VIRGINIA SITE

Dear Mr. Houser:

This refers to the inspection conducted on June 6 and 7, 2007, at the Luck Stone Quarry located in Rockville, Virginia. The inspection was an examination of your licensed activities as they relate to radiation safety and to compliance with the Commission's regulations and the license conditions. The inspection consisted of observations by the inspector, interviews with personnel, and a selected examination of representative records. Additional information provided during the telephone conversation of July 10, 2007, between you and Judith Joustra of this office was also examined as part of the inspection. The findings of the inspection were discussed with you at the conclusion of the inspection, and during the telephone conversation with you on July 10, 2007. The enclosed report presents the results of this inspection.

The inspection identified three apparent violations, including one that is considered for escalated enforcement action in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy). The current Enforcement Policy is included on the NRC's Web site at [www.nrc.gov](http://www.nrc.gov); select **Site Map**, then **Enforcement Policy**. This apparent violation involves the failure to use a minimum of two independent physical controls that form tangible barriers to secure two portable gauges from unauthorized removal, when not under the control and constant surveillance of the licensee as required by 10 CFR 30.34(i). Specifically on June 6, 2007, two portable gauges were stored in an unlocked room within your unlocked facility, and the inspector was able to enter the facility unchallenged. The remaining two apparent violations involve the failure to periodically review the radiation protection program as required by 10 CFR 20.1101; and the failure to comply with applicable requirements of the Department of Transportation regulations appropriate to the mode of transport as required by 10 CFR 71.5. Specifically, you did not carry the required shipping papers while transporting hazardous material as required by 49 CFR 177.817(a). The circumstances surrounding these apparent violations, the significance of the issues, and the need for lasting and effective corrective action were discussed with you and members of your staff on June 7, 2007 and during the July 10, 2007, telephone conversation.

In addition, since your facility has not been the subject of escalated enforcement actions within the last two years, and based on our understanding of your corrective actions, a civil penalty may not be warranted in accordance with Section VI.C.2 of the Enforcement Policy. The final NRC decision will be based on your confirming on the license docket that the corrective actions previously described to the NRC staff have been or are being taken.

On July 10, 2007, Ms. Joustra of my staff informed you that the violation of 10 CFR 30.34(i) was being considered for escalated enforcement action. Ms. Joustra also provided you an opportunity to attend a predecisional enforcement conference or to provide a written response, prior to the NRC determining appropriate enforcement action. During that conversation, you declined the opportunity to attend a conference, and you stated that you would provide a written response. We will consider your response in determining an appropriate enforcement action.

Please respond to the apparent violations addressed in this inspection report within 30 days of the date of this letter. Your response should be clearly marked as a "Response to Apparent Violations in Inspection Report No. 03030019/2007001; EA-07-174, and should include for each 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 information regarding 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 NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION," may be helpful. Your response should be clearly marked, "Exempt from Public Disclosure in Accordance with 10 CFR 2.390," if it contains security related information. 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.

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 2.390 of the NRC's "Rules of Practice," a copy of this letter will be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's document system (ADAMS), accessible from NRC Web site at [www.nrc.gov/reading-rm.html](http://www.nrc.gov/reading-rm.html). However, the enclosed Inspection Report will be withheld from public disclosure by the NRC and must be protected from unauthorized disclosure because the report contains specific information on the location and methods used to secure licensed radioactive material. Guidance regarding security related information is discussed in Regulatory Information Summary (RIS) 2005-31, "Control of Security-Related Sensitive Unclassified Non-Safeguards Information..." (ML053480073) which is available at [www.nrc.gov](http://www.nrc.gov), select **Electronic Reading Room; Document Collections; Generic Communications; Regulatory Issue Summaries; 2005; RIS-05-031**.

Current NRC regulations are included on the NRC's Web site at [www.nrc.gov](http://www.nrc.gov); select **Nuclear Materials; Medical, Industrial, and Academic Uses of Nuclear Material**; then **Regulations, Guidance, and Communications**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 7:00 a.m. to 8:00 p.m. EST, Monday through Friday (except Federal holidays).

If you have any questions concerning this matter, please contact Marie Miller of my staff at 610-337-5205.

Sincerely,

***Original Signed by:***

Brian Holian, Director  
Division of Nuclear Materials Safety

Enclosure:

1. Inspection Report No. 03030019/2007001
2. NRC Information Notice 96-28

cc:

Robert D. Morrison, Radiation Safety Officer  
Commonwealth of Virginia

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cc:

Robert D. Morrison, Radiation Safety Officer  
Commonwealth of Virginia

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**SUNSI Review Complete: JJoustra**

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DATE	08/15/07		08/27/07	08/27/07	08/29/07 w/changes

DNMS/RI	
B Holian/beh	
08/31/07	