

June 3, 2008

EA-08-015

Richard W. Blair  
Vice President  
The Blair Brothers, Inc.  
P.O. Box 5413  
Suffolk, VA 23435

SUBJECT: NOTICE OF VIOLATION  
(NRC Inspection Report No. 03030426/2007001)

Dear Mr. Blair:

This refers to the inspection conducted on November 7, 2007, at your Suffolk, Virginia facility. The inspection was an examination of your licensed activities as they relate to radiation safety and to compliance with the Commission's regulations and your license conditions. The findings of the inspection were discussed with your staff at the completion of the inspection on November 7, 2007, and again by telephone during an inspection exit conducted on December 14, 2007, between Mr. Ketchum of your staff and Mr. Gordon of this office. Subsequently, on April 14, 2008, the subject inspection report was issued to you describing the three apparent violations, one of which was being considered for escalated enforcement.

In the letter transmitting the inspection report, we also provided you the opportunity to address the apparent violations identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter dated April 22, 2008, you provided a response to the apparent violations.

Based on the information developed during the inspection, and the information that you provided in your April 22, 2008 response to the inspection report, the NRC has determined that violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the subject inspection report. The most significant violation involved the failure to use two independent physical controls that form tangible barriers to secure a portable gauge from unauthorized removal at your facility during periods when the gauge was not under control and constant surveillance, in accordance with 10 CFR 30.34(i). Specifically, on November 7, 2007, a portable gauge was left unattended inside an unlocked facility while being electronically charged, and no physical controls that form tangible barriers were being used to secure the gauge. Your staff stated that this condition could routinely exist for a period between four and eight hours during business hours. This violation is of concern to the NRC because the potential existed for an unauthorized individual to take possession of the gauge which could have resulted in a member of the public being exposed to radiation if the gauge, containing licensed material, was not handled properly. Therefore, in accordance with the Enforcement Policy, the NRC has classified this violation at Severity Level (SL) III.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3,250 is considered for a SL III violation. Since your facility has not been the subject of escalated enforcement action within the last two years or two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. Credit for corrective actions is warranted because your corrective actions were considered prompt and comprehensive. These corrective actions included: (1) providing new door locks for doors within your facility; (2) providing new security bolts/chains to enable securing the gauge; and, (3) accounting for the authorized access to the gauge by posting a sign in/sign out "user" log.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this SL III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The other two violations cited in the enclosed Notice involved the failures to: (1) periodically (at least annually) review the radiation protection program content and implementation; and, (2) have a qualified person, authorized by the NRC, function as the Radiation Safety Officer. In accordance with the NRC Enforcement Policy, these violations have been categorized at SL IV.

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance will be achieved, is already adequately addressed on the docket in this letter, in Inspection Report No. 03030426/2007001, and your letter dated April 22, 2008. Therefore, you are not required to respond to this letter. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201, if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, please follow the instructions in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public

R. Blair

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Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov>.

Sincerely,

*/RA/ Original Signed by: Marc L. Dapas for*

Samuel J. Collins  
Regional Administrator

Docket No. 03030426  
License No. 45-24972-01

Enclosure: Notice of Violation

cc: Commonwealth of Virginia

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\*See previous concurrence

## NOTICE OF VIOLATION

The Blair Brothers, Inc.  
Suffolk, Virginia

Docket No. 03030426  
License No. 45-24972-01  
EA-08-015

During an NRC inspection conducted at your Suffolk, Virginia facility on November 7, 2007, three violations of NRC requirements were identified and were discussed during an exit meeting on December 14, 2007. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 30.34 (i) requires that each portable gauge licensee shall use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

Contrary to the above, on November 7, 2007, the licensee failed to use a minimum of two independent physical controls that form tangible barriers to secure the portable gauge from unauthorized removal, whenever the portable gauge was not under the control and constant surveillance of the licensee. Specifically, a portable gauge was found unattended inside an unlocked building with no physical controls that form tangible barriers to secure the portable gauge.

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

- B. 10 CFR 20.1101(c) requires that a licensee periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, the licensee did not review at least annually the radiation protection program content and implementation. Specifically, as of November 7, 2007, the licensee had not conducted the annual review of the program during calendar years 2004-2006.

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

- C. Condition 11 of License No. 45-24972-01 requires that the Radiation Safety Officer for the license is Franck Judkins.

Contrary to the above, the Radiation Safety Officer had left the company in 2005 and the licensee failed to have a qualified person authorized by the NRC function as the RSO, as required by License Condition No. 11.

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

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to be taken to correct the violations and prevent recurrence, and the date when full compliance will be achieved, is already adequately addressed on the docket in the letter transmitting this Notice, Inspection Report No. 03030426/2007001, and your letter dated April 22, 2008. Therefore, a response to this Notice is not required. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the

description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-08-015," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region I, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at [www.nrc.gov/reading-rm/adams.html](http://www.nrc.gov/reading-rm/adams.html). Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 3rd day of June 2008