

April 17, 2000

Mr. Ron Mencarelli  
[ ]  
MOTA Corporation  
Suite 375  
810 Dutch Square Blvd.  
Columbia, SC 29210

EA-2000-03

Subject: Preliminary Notice of Violation (NTS-CH-AA-ANLE-ANLE-2000-0001)

Dear Mr. Mencarelli:

This letter refers to an evaluation by the Department of Energy (DOE) of a March 12, 2000, event at Building 211 at Argonne National Laboratory-East (ANL-E), involving your Project Manager. An Investigation Summary Report prepared by DOE on this matter is enclosed.

DOE concluded that a violation of 10 CFR Part 835 (Occupational Radiation Protection Rule) likely occurred. This violation is described in the enclosed Preliminary Notice of Violation (PNOV). Specifically, on March 12, 2000, your Project Manager entered a radiologically controlled area and removed slightly activated [metal] from this area without adhering to a site requirement for a radiological survey. Furthermore, your Project Manager transferred the [metal] from Building 211 to his personally owned vehicle and later offsite to his residence, actions that were not authorized by Laboratory personnel.

This violation is of concern to DOE because your Project Manager consciously and willfully committed the violation when he ignored radiation protection requirements. As a subcontractor performing work at a DOE site, you are obligated to strictly adhere to DOE's established nuclear safety requirements. Furthermore, if the [metal] had been contaminated, the actions of your Project Manager could have resulted in an exposure to himself, to other workers, and to members of the public. Therefore, in accordance with the criteria described in the Enforcement Policy (10 CFR 820, Appendix A), the event has been classified as a Severity Level II violation.

DOE would normally propose a civil penalty for an intentional violation. In this case, a civil penalty would have been assessed to the MOTA Corporation in the amount of \$55,000 for a Severity Level II violation. In considering mitigation, DOE concluded that no mitigation would be warranted for the violation described in the PNOV for

self-identification and reporting or the implementation of corrective actions to prevent recurrence. MOTA Corporation is not required to pay the civil penalty because (1) ANL-E and its subcontractors are exempt by statute from payment of civil penalties and (2) DOE cannot impose a civil penalty for violations associated with accelerator activities.

However, you are required to respond to this letter and to follow the instructions specified in the enclosed PNOV when preparing your response. Your response should document any additional specific actions taken to date. After reviewing your response to the PNOV, DOE will determine whether further action is necessary to ensure compliance with the applicable nuclear safety requirements.

Sincerely,



David Michaels, PhD, MPH.  
Assistant Secretary  
Environment, Safety and Health

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Enclosures:  
Preliminary Notice of Violation  
Investigation Summary Report

cc: B. Costner, S-1  
M. Zacchero, EH-1  
S. Cary, EH-1  
K. Christopher, EH-10  
S. Hurley, EH-10  
D. Stadler, EH-2  
O. Pearson, EH-3  
J. Fitzgerald, EH-5  
J. Decker, SC-1  
M. Johnson, SC-3  
R. Schwartz, SC-83  
R. San Martin, DOE-CH  
C. Zook, DOE PAAA Coordinator-CH-ANLE  
R. Purucker, Alternate DOE PAAA Coordinator-CH-ANLE  
A Cohen, Contractor ANLE PAAA Coordinator  
R. Azzaro, DNFSB  
Docket Clerk, EH-10

**PRELIMINARY NOTICE OF VIOLATION**  
**NTS-CH-AA-ANLE-ANLE-2000-0001**

MOTA Corporation

EA-2000-03

As a result of a Department of Energy (DOE) evaluation of a March 12, 2000, event at Argonne National Laboratory-East (ANL-E) involving an unauthorized removal of [metal] from Building 211, a violation of DOE nuclear safety requirements was identified. In accordance with 10 CFR 820, Appendix A, "General Statement of Enforcement Policy," DOE is issuing this Preliminary Notice of Violation. The particular violation is set forth below.

10 CFR 835.3(a) states that no person shall take or cause to be taken any action inconsistent with the requirements of 10 CFR 835 or any program, plan, schedule or other process established by 10 CFR 835.

Contrary to the above,

Chapter 5-17 of the Argonne National Laboratory Environment, Safety and Health Manual dated December 30, 1999, prohibits an individual from removing material from radiologically controlled area without first contacting the ANL-E Health Physics office to arrange for a survey of the material. However, on March 12, 2000, a Project Manager for the MOTA Corporation entered Room C-101, a radiologically controlled area, and removed slightly activated [metal] from the radiologically controlled area without contacting ANL-E Health Physics office to obtain the required survey and subsequently removed the material from the site.

This violation constitutes a Severity Level II problem.  
Civil Penalty - \$55,000 (Remitted)

Pursuant to the provisions of 10 CFR 820.24, the MOTA Corporation is hereby required within 30 days of the date of this Preliminary Notice of Violation to submit a written statement or explanation to the Director, Office of Enforcement and Investigation, Attention: Office of the Docketing Clerk, P.O. Box 2225, Germantown, MD 20874-2225. A copy should also be sent to the Manager, DOE-Argonne Group, U. S. Department of Energy, 9800 South Cass Ave., Argonne IL 60439. This reply should be clearly marked as a "Reply to a Preliminary Notice of Violation" and should include the following for the violation: (1) admission or denial of the alleged violation; (2) any facts set forth which

are not correct, and (3) the reason for the violations, if admitted, or if denied, the basis for the denial. Corrective actions that have been or will be taken to avoid further violations will be described with target and completion dates. In the event the violations set forth in this Preliminary Notice of Violation are admitted, this Notice will constitute a Final Notice of Violation in compliance with the requirements of 10 CFR 820.25.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Michaels', written in a cursive style.

David Michaels, PhD, MPH.  
Assistant Secretary  
Environment, Safety and Health

Dated at Washington, DC,  
this 17th day of April 2000