



October 11, 2016

**HAND DELIVERED**

Michael Krimmel, Esq.  
Chief Clerk  
Commonwealth Court of Pennsylvania  
Pennsylvania Judicial Center  
601 Commonwealth Avenue, Suite 4500  
Harrisburg, PA 17106-2575

11 OCT 2016 09 49

RECEIVED & FILED  
COMMONWEALTH COURT  
OF PENNSYLVANIA

**RE: Submission of Record in:**  
***Kendra Smith on behalf of Smith Butz, LLC v.***  
***Pennsylvania Department of Environmental Protection,***  
**No. 1431 CD 2016**

Dear Mr. Krimmel:

We hereby submit the record in the above-referenced matter. Section 1303 of the Right-to-Know Law, 65 P.S. §§ 67.101, *et seq.*, (“RTKL”), defines the Record on Appeal as “the record before a court shall consist of the request, the agency’s response, the appeal filed under section 1101, the hearing transcript, if any, and the final written determination of the appeals officer.” Pursuant to *DOT v. Office of Open Records*, 7 A.3d 329 (Pa. Commw. Ct. 2010), this record includes all “evidence and documents admitted into evidence by the appeals officer pursuant to Section 1102(a)(2).” The record in this matter consists of the following:

**Office of Open Records Docket Nos. AP 2016 – 0587, 0602, 0603, 0604, 0605, 0606, and 0607, consolidated as OOR Docket AP 2016-0587.**

**A. OOR Dkt. AP 2016-0587**

1. The Appeal filed by Kendra Smith (“Requester”) received by the Office of Open Records (“OOR”) on March 24, 2016 and docketed as AP 2016-0587.
2. Official Notice of Appeal dated March 25, 2016, sent to both parties advising them of the docket number and identifying the Appeals Officer for the matter.

**B. OOR Dkt. AP 2016-0602**

1. The Appeal filed by Requester received by the Office of Open Records on March 29, 2016 and docketed as AP 2016-0602.

2. Official Notice of Appeal dated March 30, 2016, sent to both parties advising them of the docket number and identifying the Appeals Officer for the matter.

C. OOR Dkt. AP 2016-0603

1. The Appeal filed by Requester received by the Office of Open Records on March 29, 2016 and docketed as AP 2016-0603.
2. Official Notice of Appeal dated March 30, 2016, sent to both parties advising them of the docket number and identifying the Appeals Officer for the matter.

D. OOR Dkt. AP 2016-0604

1. The Appeal filed by Requester received by the Office of Open Records on March 29, 2016 and docketed as AP 2016-0604.
2. Official Notice of Appeal dated March 30, 2016, sent to both parties advising them of the docket number and identifying the Appeals Officer for the matter.

E. OOR Dkt. AP 2016-0605

1. The Appeal filed by Requester received by the Office of Open Records on March 29, 2016 and docketed as AP 2016-0605.
2. Official Notice of Appeal dated March 30, 2016, sent to both parties advising them of the docket number and identifying the Appeals Officer for the matter.

F. OOR Dkt. AP 2016-0606

1. The Appeal filed by Requester received by the Office of Open Records on March 29, 2016 and docketed as AP 2016-0606.
2. Official Notice of Appeal dated March 30, 2016, sent to both parties advising them of the docket number and identifying the Appeals Officer for the matter.

G. OOR Dkt. AP 2016-0607

1. The Appeal filed by Requester received by the Office of Open Records on March 29, 2016 and docketed as AP 2016-0607.

2. Official Notice of Appeal dated March 30, 2016, sent to both parties advising them of the docket number and identifying the Appeals Officer for the matter.
- H. Core Laboratories, doing business as ProTechnics ("ProTechnics"), request to participate as a third party participant dated March 31, 2016.
- I. OOR e-mail chain dated March 31, 2016, granting the Department of Environmental Protection's ("Department") request to consolidate matters AP 2016-0587 and 2016-0602 through 2016-0607 as AP 2016-0587 and granting ProTechnics' third party participation request.
- J. ProTechnics' position statement dated April 22, 2016.
- K. Department's position statement dated April 22, 2016.
- L. Requester's agreement to allow an extension to issue the Final Determination dated April 26, 2016.
- M. Final Determination in OOR Dkt. AP 2016-0587 dated July 27, 2016, issued by the OOR.

The OOR has discretion to hold a hearing on appeals filed but chose not to do so in this matter. Therefore, there is no transcript to transmit. Certification of the record in this case is attached to this letter. Please feel free to contact us for any reason in connection with this matter.

Sincerely,



Charles Rees Brown  
Chief Counsel

Attachments

cc: Kendra Smith, Esq., Smith Butz, LLC (Requester)  
Roy W. Arnold, Esq. for Dept. of Environmental Protection (Agency)

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

KENDRA SMITH on behalf of  
SMITH BUTZ, LLC,  
Petitioner

v.

PENNSYLVANIA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,  
Respondent

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No. 1431 CD 2016

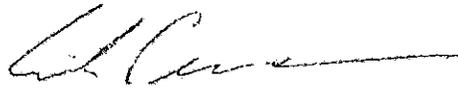
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CERTIFICATION OF RECORD

I hereby certify the contents of the record transmitted with this Certification of Record pursuant to Pa.R.A.P. 1952 in *Kendra Smith on behalf of Smith Butz, LLC v. Pennsylvania Department of Environmental Protection*, OOR Dkts. 2016 – 0587 AND 2016-0602 through 2016-0607, which are the subject of this appeal.

The record transmitted with this certification is generated entirely from the Office of Open Records database. It is our practice to scan in each and every document submitted in an appeal. Thus, no originals are being transmitted to this Court.

Also, my signature on this Certification of Record and on all other correspondence directed to the Commonwealth Court in connection with this matter may be electronic and not original. I hereby certify that this is my true and correct signature and that I have approved the use thereof for these purposes.



---

Erik Arneson, Executive Director  
Office of Open Records  
Commonwealth Keystone Building  
400 North Street, Plaza Level  
Harrisburg, PA 17120-0225  
Phone: (717) 346-9903; Fax: (717) 425-5343  
E-mail: [OpenRecords@pa.gov](mailto:OpenRecords@pa.gov)

Dated: October 11, 2016

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

KENDRA SMITH on behalf of  
SMITH BUTZ, LLC,  
Petitioner

v.

PENNSYLVANIA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,  
Respondent

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No. 1431 CD 2016

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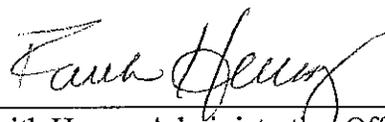
CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the Certified Record upon the following by First Class Mail, pre-paid or by e-mail at the e-mail address list below:

Kendra L. Smith, Esquire  
Smith Butz, LLC  
125 Technology Drive, Suite 202  
Bailey Center I, Southpointe  
Canonsburg, PA 15317  
[klsmith@smithbutzlaw.com](mailto:klsmith@smithbutzlaw.com)

Jacqueline Conforti Barnett, Esquire  
Pennsylvania Department of  
Environmental Protection  
9<sup>th</sup> Floor, Rachel Carson Building  
400 Market Street  
Harrisburg, PA 17105  
[jacqbarnet@pa.gov](mailto:jacqbarnet@pa.gov)

Roy W. Arnold, Esquire  
Caitlin R. Garber, Esquire  
Reed Smith LLP  
225 Fifth Avenue, Suite 1200  
Pittsburgh, PA 15222  
[rarnold@reedsmith.com](mailto:rarnold@reedsmith.com)  
[cgarber@reedsmith.com](mailto:cgarber@reedsmith.com)



---

Faith Henry, Administrative Officer  
Office of Open Records  
Commonwealth Keystone Building  
400 North Street, Plaza Level  
Harrisburg, PA 17120-0225  
Phone: (717) 346-9903  
Fax: (717) 425-5343  
E-mail: [fahenry@pa.gov](mailto:fahenry@pa.gov)

Dated: October 11, 2016

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

KENDRA SMITH on behalf of :  
SMITH BUTZ, LLC, :  
Petitioner :  
 :  
v. : No. 1431 CD 2016  
PENNSYLVANIA DEPARTMENT OF :  
ENVIRONMENTAL PROTECTION, :  
Respondent :

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**CERTIFIED RECORD**

Charles Rees Brown  
Chief Counsel  
Commonwealth of Pennsylvania  
Office of Open Records  
Commonwealth Keystone Building  
400 North Street - Plaza Level  
Harrisburg, PA 17120-0225  
Phone: (717) 346-9903  
Fax: (717) 425-5343  
E-mail: [Charlebrow@pa.gov](mailto:Charlebrow@pa.gov)

October 11, 2016

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

|                                   |   |                         |
|-----------------------------------|---|-------------------------|
| <b>KENDRA SMITH on behalf of</b>  | : |                         |
| <b>SMITH BUTZ, LLC,</b>           | : |                         |
| <b>    Petitioner</b>             | : |                         |
|                                   | : |                         |
| <b>v.</b>                         | : | <b>No. 1431 CD 2016</b> |
| <b>PENNSYLVANIA DEPARTMENT OF</b> | : |                         |
| <b>ENVIRONMENTAL PROTECTION,</b>  | : |                         |
| <b>    Respondent</b>             | : |                         |

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RECORD

A. OOR Dkt. AP 2016-0587

1. The Appeal filed by Kendra Smith (“Requester”) received by the Office of Open Records (“OOR”) on March 24, 2016 and docketed as AP 2016-0587.
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1. The Appeal filed by Requester received by the Office of Open Records on March 29, 2016 and docketed as AP 2016-0602.
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1. The Appeal filed by Requester received by the Office of Open Records on March 29, 2016 and docketed as AP 2016-0603.
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1. The Appeal filed by Requester received by the Office of Open Records on March 29, 2016 and docketed as AP 2016-0604.

2. Official Notice of Appeal dated March 30, 2016, sent to both parties advising them of the docket number and identifying the Appeals Officer for the matter.

E. OOR Dkt. AP 2016-0605

1. The Appeal filed by Requester received by the Office of Open Records on March 29, 2016 and docketed as AP 2016-0605.
2. Official Notice of Appeal dated March 30, 2016, sent to both parties advising them of the docket number and identifying the Appeals Officer for the matter.

F. OOR Dkt. AP 2016-0606

1. The Appeal filed by Requester received by the Office of Open Records on March 29, 2016 and docketed as AP 2016-0606.
2. Official Notice of Appeal dated March 30, 2016, sent to both parties advising them of the docket number and identifying the Appeals Officer for the matter.

G. OOR Dkt. AP 2016-0607

1. The Appeal filed by Requester received by the Office of Open Records on March 29, 2016 and docketed as AP 2016-0607.
2. Official Notice of Appeal dated March 30, 2016, sent to both parties advising them of the docket number and identifying the Appeals Officer for the matter.

H. Core Laboratories, doing business as ProTechnics ("ProTechnics"), request to participate as a third party participant dated March 31, 2016.

I. OOR e-mail chain dated March 31, 2016, granting the Department of Environmental Protection's ("Department") request to consolidate matters AP 2016-0587 and 2016-0602 through 2016-0607 as AP 2016-0587 and granting ProTechnics' third party participation request.

J. ProTechnics' position statement dated April 22, 2016.

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M. Final Determination in OOR Dkt. AP 2016-0587 dated July 27, 2016, issued by the OOR.

# Exhibit A

# Exhibit A

1



RECEIVED

MAR 24 2016

OFFICE OF OPEN RECORDS

RIGHT TO KNOW LAW APPEAL  
DENIAL OR PARTIAL DENIAL

Office of Open Records  
Commonwealth Keystone Building  
400 North Street, 4<sup>th</sup> Floor  
Harrisburg, PA 17120-0225  
Fax: (717) 425-5343 E-mail: [openrecords@pa.gov](mailto:openrecords@pa.gov)

Today's date: 3/24/2016

Requester's name: Kendra L. Smith, Esquire

Address/City/State/Zip: 125 Technology Drive, Suite 202 Canonsburg, PA 15317

Request submitted by:  Fax  Mail  E-mail  In-Person (Please check one)

Date of Right to Know request: 2/1/2016 Date of Agency Response: 3/7/2016

Telephone and fax number: 724-745-5121 / 724-745-5125 E-mail: ksmith@smithbutzlaw.com

Name and address of Agency: Department of Environmental Protection

E-mail Address of Agency \_\_\_\_\_ Fax of Agency \_\_\_\_\_

Name and title of person who denied my request: Dawn Schaef

I submitted a request for records to the agency named above. The agency either denied or partially denied my request. I am appealing that denial to the Office of Open Records (OOR), and I am providing the following information:

I was denied access to the following records (attach additional pages if necessary): 3,232 of responsive records were withheld and the records provided were heavily redacted. The Position Statement attached hereto outlines the denial in greater detail.

The agency's denial of my request is flawed and the requested records are public records because (check all that apply) **(REQUIRED)**:

- the records document the receipt or use of agency funds.
- the records are in the possession, custody or control of the agency and are not protected by any exemptions under Section 708 of the Right-to-Know Law, are not protected by privilege, and are not exempted under any Federal or State law or regulation.
- Other See attached Position Statement in Support of Appeal

(attach additional pages if necessary)

- I have attached a copy of my request for records. **(REQUIRED)**
- I have attached a copy of all responses from the agency regarding my request. **(REQUIRED)**
- I have attached any letters or notices extending the agency's time to respond to my request.
- I hereby agree to permit the OOR an additional thirty (30) days to issue a final order in this appeal.

Respectfully Submitted,  (must be signed)

You should provide the agency with a copy of this form and any documents you submit to the OOR.



## DEP Right-to-Know Law Record Request Form

**Business Hours:** 8:00 am - 4:30 pm (RTK requests received after 4:30 pm are considered received the next business day)  
**Mail to:** DEP Open Records Officer ("AORO"), DEP/BOS, PO Box 8473, Harrisburg, PA 17105-8473.  
**Or Fax to:** 717-705-8023  
**Or Email to:** [EP-DEP-RTK@pa.gov](mailto:EP-DEP-RTK@pa.gov) \*Request sent to any other email will not be deemed a RTKL request.  
**Contact:** 717-787-2043

**Name of Requestor (or Anonymous):** Kendra L. Smith, Esq.  
**Name of Company (or N/A):** Smith Butz, LLC  
**Requestor's Street Address:** 125 Technology Drive, Suite 202, Bailey Center I  
**Requestor's City/State/Zip Code:** Canonsburg, PA 15317  
**Requestor's Telephone Number:** (724) 745-5121  
**Requestor's Email Address:** ksmith@smithbutzlaw.com

Records being requested (please sufficiently describe the record(s) requested so that they are identifiable to Department staff.):

Core Laboratories d/b/a Protechnics, Division of Core Laboratories, LP

Name of Individual / Company for records being requested (including former names)

Yeager Drill Site

Facility Name for requested records (if different than Company Name)

McAdams Road, Washington, PA 15301

Street Address (including zip code)

Washington

County(ies)

Amwell

Municipality(ies)

Additional information to assist with search and retrieval of responsive records (e.g. permit no.(s); dates or timeframe of records requested; programs of interest, geographic area):

Please see, "Attachment 1," attached hereto.

**FORM OF RECORD PRODUCTION – check appropriate response:**

**REQUESTING FILE REVIEW ACCESS:**

Seeking access, review and self copying of records is at a reduced cost of \$.15 per page.  YES  NO

**REQUESTING DUPLICATION AND MAILING RECORDS:**

Agency copying of records is at a cost of \$.25 per page  YES  NO

**REQUESTING CERTIFICATION OF RECORDS:**

I WANT DEP TO CERTIFY RECORDS (AT A COST OF \$5.00 PER REQUEST):  YES

PENNSYLVANIA – OFFICE OF OPEN RECORDS  
RIGHT-TO-KNOW REQUEST

“ATTACHMENT 1”

Any and all approvals, permits, licenses/licensures, applications for permits and/or licenses, reciprocity letters, reciprocity licenses, reciprocity agreements and/or reciprocity arrangements, including, but not limited to all licenses issued by the Pennsylvania Department of Environmental Protection (“PA DEP”) to Core Laboratories d/b/a Protechnics, Division of Core Laboratories, LP (hereinafter, “Protechnics”) for use, storage and possession of radioactive materials and/or other licensed material. Additionally, this request seeks any and all investigation reports, Notices of Violation(s), Consent Order and Agreement(s) issued to Protechnics by the PA DEP and/or between Protechnics and the PA DEP for any and all work or services performed by Protechnics at any natural gas well site in the Commonwealth of Pennsylvania. Included in this request is a request for copies of all Notices of Violation issued by the PA DEP to Protechnics, including but not limited to Notices of Violation dated 06/15/10, 01/28/10, 11/26/13, 09/13/13 and 10/14/13, Violation Numbers 677913, 677915, 677914, 682834, 682833, 682829, 682835 and all corresponding inspection reports, field notes and other related writings. Further, this request seeks any and all Consent Order and Agreements between the PA DEP and Protechnics, including, but not limited to, Consent Orders and Agreements dated November 2, 2013 and November 2, 2010.

Additionally, this request includes a request for copies of all enforcement activity taken by the PA DEP against Protechnics, including but not limited to Enforcement ID Number 305057, 259202 and 263973, as well as all inspection reports completed by the PA DEP regarding Protechnics, including, but not limited to, Inspection ID Numbers 1891418, 1919964, 2147772, 2204156 and 2221258.

This request further seeks any and all Radioactive Tracer Well Site Agreements made between Protechnics and any well site operator(s) for each and every well traced in the Commonwealth of Pennsylvania that is or was submitted to the PA DEP, including, but not limited to, the April 7, 2013 Radioactive Tracer Well Site Agreement between Protechnics and a well operator.

In addition to the above, this request seeks any and all notifications submitted to the PA DEP by Protechnics or the associated operator or subcontractor regarding Protechnics confirmation that licensed material, including, but not limited to, radioactive material, was returned to the surface at any well site in which Protechnics operated/performed work or services in the Commonwealth of Pennsylvania.

Additionally, this request seeks any and all documents, correspondence, e-mails and any other communication(s) between Protechnics and the PA DEP and/or Range Resources and the PA DEP regarding Protechnics and any and all work/services performed in the Commonwealth of Pennsylvania by Protechnics.

Further, this request seeks any and all MSDS/SDS (material data safety sheets and safety data sheets) in the possession of the PA DEP regarding any and all products utilized by Protechnics at

any well site in Pennsylvania, including, but not limited to, all MSDS/SDS for Protechnics Radioactive Tracer Products, as well as any and all Chemical Frac Tracer ("CFT") products, including, but not limited to, CFT 1000, CFT 1100, CFT 1200, CFT 1300, CFT 2000, CFT 2100, CFT 1900, CFT 1700.

**Danser, Judi**

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**From:** Stokan, Edward  
**Sent:** Wednesday, February 03, 2016 2:58 PM  
**To:** EP, Right-to-Know  
**Cc:** Barnett, Jacqueline Conforti (DEP); Cantwell, John  
**Subject:** FW: February 1, 2016 RTKL Request re ProTechnics 1400-16-071, 4100-16-0027, 4200-16-023, 4300-16-019, 4400-16-010, 4500-16-018, 4600-16-029

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**From:** Kendra L. Smith [<mailto:klsmith@smithbutzlaw.com>]  
**Sent:** Wednesday, February 03, 2016 2:50 PM  
**To:** Stokan, Edward  
**Subject:** RE: February 1, 2016 RTKL Request re ProTechnics

It is for all drill sites in the Commonwealth including but not limited to the Yeager Drill site as indicated in attachment 1. Thank you.

Kendra L. Smith, Esq.  
Smith Butz, LLC  
Attorneys at Law  
125 Technology Drive, Suite 202  
Bailey Center I, Southpointe  
Canonsburg, PA 15317  
Phone: (724) 745-5121  
Fax: (724) 745-5125  
Email: [klsmith@smithbutzlaw.com](mailto:klsmith@smithbutzlaw.com)  
Web: [www.smithbutzlaw.com](http://www.smithbutzlaw.com)

CONFIDENTIALITY NOTICE: The information in this email may be confidential and/or privileged. This email is intended to be reviewed by only the individual or organization named above. If you are not the intended recipient or an authorized representative of the intended recipient, you are hereby notified that any review, dissemination or copying of this email and its attachments, if any, or the information contained herein is prohibited. If you have received this email in error, please notify the sender by return email and delete this email from your system. Thank you.

----- Original Message -----

**Subject:** February 1, 2016 RTKL Request re ProTechnics  
**From:** "Stokan, Edward" <[estokan@pa.gov](mailto:estokan@pa.gov)>  
**Date:** Wed, February 03, 2016 2:46 pm  
**To:** "[klsmith@smithbutzlaw.com](mailto:klsmith@smithbutzlaw.com)" <[klsmith@smithbutzlaw.com](mailto:klsmith@smithbutzlaw.com)>

Your February 1, 2016 Right-to-Know Law request indicates that the "Facility name for requested records" is the "Yeager Drill Site."

However, your Attachment 1 indicates that you are seeking responsive records as to any natural gas well site in the Commonwealth.

Can you please confirm whether you seek records pertaining only to the Yeager Drill Site or pertaining to all gas well sites throughout the Commonwealth?

**Edward S. Stokan** | Assistant Counsel  
Department of Environmental Protection | Office of Chief Counsel  
Southwest Regional Office  
400 Waterfront Drive | Pittsburgh, PA 15222  
Phone: 412.442.4262 | Direct Phone: 412.442.4249 | Fax: 412.442.4274  
[www.depweb.state.pa.us](http://www.depweb.state.pa.us)

PRIVILEGED AND CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION  
ATTORNEY WORK PRODUCT

*The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any use of this information other than by the intended recipient is prohibited. If you receive this message in error, please send a reply e-mail to the sender and delete the material from any and all computers. Unintended transmissions shall not constitute waiver of the attorney-client or any other privilege.*



**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

March 7, 2016

UPS Tracking Number 1Z16633X0395417308

Kendra L. Smith, Esquire  
Smith Butz, LLC  
125 Technology Drive, Suite 202, Bailey Center 1  
Canonsburg, PA 15317

Re: Right-to-Know Request Numbers: **1400-16-071 (CO)**, 4100-16-0027 (SE), 4200-16-023 (NE), 4300-16-019 (SC), 4400-16-010 (NC), 4500-16-018 (SW), 4600-16-029 (NW)

Dear Attorney Smith:

On February 1, 2016, the open-records officer of the Department of Environmental Protection (Department) received your written request for records and assigned it the tracking numbers listed above. The subject of your request required its assignment to the Department's Central Office (CO), and the Southeast (SE), Northeast (NE), Southcentral (SC), Northcentral (NC), Southwest (SW), and Northwest (NW) Regional Offices. However, for purposes of this final response, the Department's CO is responding on its own behalf to your request under the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-67.3104 (RTKL). You will receive final correspondence under separate cover from the other assigned offices.

You requested records for Core Laboratories d/b/a Protechnics, Division of Core Laboratories, LP located at the Yeager Drill Site, McAdams Road, Washington, Pennsylvania. You are seeking:

- Any and all approvals, permits, licenses/licensures, applications for permits and/or licenses, reciprocity letters, reciprocity licenses, reciprocity agreements and/or reciprocity arrangements, including, but not limited to all licenses issued by the Department to Core Laboratories d/b/a Protechnics, Division of Core Laboratories, LP (hereinafter, "Protechnics") for use, storage and possession of radioactive materials and/or other licensed material. Additionally, this request seeks any and all investigation reports, Notices of Violation(s), Consent Order and Agreement(s) issued to Protechnics by the Department and/or between Protechnics and the Department for any and all work or services performed by Protechnics at any natural gas well site in the Commonwealth of Pennsylvania. Included in this request is a request for copies of all Notices of Violation issued by the Department to Protechnics, including but not limited to Notices of Violation dated June 15, 2010, January 28, 2010, November 26, 2013, September 13, 2013 and October 14, 2013, Violation Numbers 677913, 677915, 677914, 682834, 682833, 682829, 682835 and all corresponding inspection reports, field notes and other related writings. Further, this request seeks any and all Consent Order and Agreements between the Department and Protechnics, including, but not limited to, Consent Orders and Agreements dated November 2, 2013 and November 2, 2010.

- Copies of all enforcement activity taken by the Department against Protechnics, including but not limited to Enforcement ID Numbers 305057, 259202 and 263973, as well as all inspection reports completed by the Department regarding Protechnics, including, but not limited to, Inspection ID Numbers 1891418, 1919964, 2147772, 2204156 and 2221258.
- Any and all Radioactive Tracer Well Site Agreements made between Protechnics and any well site operator(s) for each and every well traced in the Commonwealth of Pennsylvania that is or was submitted to the Department, including, but not limited to, the April 7, 2013, Radioactive Tracer Well Site Agreement between Protechnics and a well operator.
- Any and all notifications submitted to the Department by Protechnics or the associated operator or subcontractor regarding Protechnics confirmation that licensed material, including, but not limited to, radioactive material, was returned to the surface at any well site in which Protechnics operated/performed work or services in the Commonwealth of Pennsylvania.
- Any and all documents, correspondence, e-mails and any other communication(s) between Protechnics and the Department and/or Range Resources and the Department regarding Protechnics and any and all work/services performed in the Commonwealth of Pennsylvania by Protechnics.
- Any and all MSDS/SDS (material data safety sheets and safety data sheets) in the possession of the Department regarding any and all products utilized by Protechnics at any well site in Pennsylvania, including, but not limited to, all MSDS/SDS for Protechnics Radioactive Tracer Products, as well as any and all Chemical Frac Tracer ("CFT") products, including, but not limited to, CFT 1000, CFT 1100, CFT 1200, CFT 1300, CFT 2000, CFT 2100, CFT 1900, CFT 1700.

By your email on February 3, 2016, to Department Legal Counsel, Edward Stokan of the Department's SW Regional Office, you amended your RTKL request to the following:

- All drill sites in the Commonwealth, including but not limited to the Yeager Drill site as indicated in attachment 1 of the original request. Your request is granted in part and denied in part for records held by the Department's CO and records responsive to your request are enclosed.

An initial response to your request was due on February 8, 2016. On that date, the Department notified you that it required an additional 30 days, until March 9, 2016, to respond to your request.

Your request is granted in part and denied in part for records held by the Department's CO and records responsive to your request are enclosed.

Your request covers 29 pages of material. The cost of fulfilling your request is \$27.21 (\$.25 per page for the duplication of 29 pages; \$.50 per page for redaction of 24 pages; and \$7.96 for postage).

Please remit payment in this amount by **March 28, 2016**, to the Department at the address listed. Checks should be made out to the Commonwealth of Pennsylvania and also reference the RTKL Request Number 1400-16-071. The remittance should be sent to me. Cash or credit card payment is not accepted.

Further, please note that failure to pay for records provided in response to a RTKL request to any executive agency will preclude you from obtaining further records from another executive agency, pursuant to the provisions of section 901 of the RTKL and Section IV (D) of the Department's RTKL Policy, published at <http://www.dep.pa.gov/Citizens/PublicRecords/RightToKnowLaw/Pages/default.aspx#.VobNGxwo7X4>.

Also, if payment is not received and you request the same records again the request may be disruptive under 65 P.S. § 67.506(a)(1).

However, a portion of your request is denied. CO has withheld 3,232 pages of material and also redacted portions of 24 pages of material. Eight redacted pages were previously provided to you in 2015 from the Department's Central Office.

With respect to those records for which the Department is denying your request, the records are either exempt from production under Section 708 of the RTKL, 65 P.S. § 67.708, or protected by a privilege.

Section 305 of the RTKL provides that records shall not be presumed to be public records if they are exempt under section 708 or protected by a privilege. 65 P.S. § 67.305(a) and (b). The withholding and redacting of records are for the following legally permissible reasons:

**Regulatory Preclusion to the Release of Records.**

The Department's regulations pertaining to radiologic health specify that among those records not available for public inspection are "[a] report of an investigation ... which would disclose the institution, progress or results of an investigation undertaken by the Department." 25 Pa. Code § 215.14(2). Under the RTKL, the presumption of an agency record being public does not apply if a record is exempt from disclosure under any state law or regulation. 65 P.S. § 67.305(a)(3). Consequently, the regulatory inability to release inspection reports by the Department's radiation protection program and records for the radioactive materials general license registration, removes approximately 791 pages of responsive records from the RTKL definition of a public record. 65 P.S. § 67.102. Therefore, access to these records is denied by the CO due to a regulatory restriction.

**Public Safety and Security.**

Radioactive materials files cannot be released to the public for public safety and security reasons. A radioactive materials license, related complaint, incident report, inspection report, any notice of violation regarding radioactive materials and the company employees' names and contact information who manage the radioactive material are exempt from disclosure under multiple provisions of the RTKL. Disclosing the contents of these records would reveal specific information pertaining to the nature and location of radioactive materials.

Pursuant to Section 708(b)(2) of the RTKL, a record is exempt from access by a requester if the record is "maintained by an agency in connection with the military, homeland security, national defense, law enforcement or other public safety activity that if disclosed would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity ...." 65 P.S. § 67.708(b)(2).

Furthermore, Section 708(b)(3) of the RTKL provides that a record is exempt from access by a requester if disclosure of the record "creates a reasonable likelihood of endangering the safety or the physical security of a building, public utility, resource, [or] infrastructure ...." 65 P.S. § 67.708(b)(3).

The disclosure of a license's contents, incident report, and any inspection report could reasonably lead to public safety risks. The license and reports provide detailed information about the specific location and the security measures taken to protect radioactive materials. Moreover, radioactive materials files generally contain information identifying radioactive source possessed, the quantity or type of source, activity of the source, location of the source, identity of individuals authorized to have access to or use of the source, and similar sensitive information. Information contained within these files would give a determined adversary the means to actually do harm to others.

An individual could utilize the information contained in the license and reports to unlawfully obtain the radioactive materials for illicit purposes thus creating a major security and health breach. If an individual with criminal intent obtained these materials or should an individual re-publish the information contained within a license and reports which was subsequently obtained by someone with criminal intent, the public's health and safety could be severely compromised.

CO has withheld approximately 1,544 pages of records that would otherwise be responsive to your request. The information of concern within these records specifically includes the licensees' names, license numbers, physical addresses, ProTechnics' employees' identities, ProTechnics' employees' email addresses, types of sources, activities of sources, quantities of sources, locations of sources, use of sources or modalities, names of authorized users, contact names at the site, license-specific information, inspection reports, CO staff who have knowledge of the sources, and documentation of security controls implemented at the site to prevent unauthorized access to the sources.

**Internal, Predecisional Deliberation Exception.**

The Department denies your request to records that reflect its predecisional, internal deliberations, because such records are exempt from production under the RTKL. 65 P.S. § 67.708(b)(10).

Section 708(b)(10)(i)(A) of the RTKL states that a Commonwealth agency can withhold records that reflect, "The internal, pre-decisional deliberations of an agency, its members, employees or officials or pre-decisional deliberations between agency members, employees or officials and members, employees or officials of another agency..., contemplated or proposed policy or course of action of any research, memos or other documents used in the predecisional deliberations." 65 P.S. § 67.708(b)(10)(i)(A). According to the language of Section 708(b)(10)(i), protected records must be internal, predecisional, and deliberative. *McGowan v. Dep't of Env'tl. Protection*, 103 A.3d 374 (Pa. Cmwlth. 2014).

Furthermore, in addition to protecting records that are internal, predecisional deliberations, Section 708(b)(10)(i)(A) also protects records that "reflect" deliberations. Although "reflect" is not expressly defined in the RTKL, it was discussed at length by the Commonwealth Court in *Office of the Governor v. Scolforo*, 65 A.3d 1095 (Pa. Cmwlth. 2013) (*en banc*) (*Scolforo*). The Court stated:

[W]e recognize that the General Assembly utilized the specific term "*reflect*," 65 P.S. § 67.708(b)(10) (*emphasis added*), and did not use the term "*reveal*." The term *reflect* means "mirror" or "show," while the term *reveal* means "to make publicly or generally known" or, in other words, "disclose." *Webster's Third New International Dictionary* 1908, 1942 (2002). Given the broad meaning of the term *reflect*, as opposed to *reveal*, and the fact that the General Assembly chose the term *reflect* when providing for the predecisional deliberative exception, we must interpret the exception as written.

*Scolforo*, 65 A.3d at 1101-1102.

Accordingly, the General Assembly's specific use of the word "reflect" in the internal, predecisional deliberation exception of the RTKL signifies that there is no requirement that the deliberated course of action be detailed, set forth, or summarized in a record in order to confer this protection. 65 P.S. § 67.708(b)(10)(i)(A). Thus, a record is protected from disclosure even if it reflects the agency's deliberations.

Consequently, approximately 1,500 pages of records are exempted from disclosure because these records contain or reflect the CO's internal, predecisional deliberative records or were relied upon by the CO as part of its internal, predecisional deliberative process. The records withheld pertain to internal correspondence among CO employees reflecting the decision making process regarding enforcement actions, draft letters, draft notices of violations and meeting notes. These records are internal, prior to any final decision, and do not reflect the final determination of the Department.

**Confidential Proprietary Information.**

To the extent that your request identifies confidential proprietary information, the CO denies a portion of your request because such records are exempt from disclosure by the Radiological Health Regulations, 25 Pa. Code § 215.1 *et. seq.* and the RTKL, 65 P.S. § 67.708(b)(11).

Specifically, the CO has determined that approximately 128 pages of records reveal confidential proprietary information and constitute or reveal trade secrets. These responsive records are exempt pursuant to 25 Pa. Code § 215.14 of the Radiological Health Regulations, which states:

The following Department records are not available for public inspection, unless the Department determines that disclosure is in the public interest and is necessary for the Department to carry out its duties under the act:

- (1) Trade secrets or secret industrial processes customarily held in confidence.
- (2) A report of investigation, not pertaining to safety and health in industrial plants, which would disclose the institution, progress or results of an investigation undertaken by the Department.
- (3) Personnel, medical and similar files, the disclosure of which would operate to the prejudice or impairment of a person's reputation or personal safety.

"Confidential proprietary information" is defined under the RTKL as "[c]ommercial or financial information received by an agency: (1) which is privileged or confidential; and (2) the disclosure of which would cause substantial harm to the competitive position of the person that submitted the information." 65 P.S. § 67.102.

Also, under the RTKL "trade secrets" is defined as:

Information, including a formula, drawing, pattern, compilation, including a customer list, program, device, method, technique or process that:

- (1) Derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and
- (2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. The term includes data processing software obtained by an agency under a licensing agreement prohibiting disclosure.

65 P.S. § 67.102.

Specifically, the CO has determined that the disclosure of approximately 128 pages, though responsive, would undermine ProTechnics' competitive position in the marketplace and would reveal a specialized framework that ProTechnics expended substantial time and money to develop.

Therefore, based on these legal authorities, the CO withheld approximately 128 pages of records. These records include patent information and well tracer presentation information.

Noncriminal Investigation.

The noncriminal investigation exceptions of 65 P.S. §§ 67.708(b)(17)(i) and (ii) exempt from disclosure: (i) Complaints submitted to an agency; and (ii) Investigative materials, notes, correspondence and reports. Section 708(b)(17)(vi)(A) through (E) further exempts records, that, if disclosed, would do one or more of the following:

- (A) Reveal the institution, progress or result of an agency investigation, except the imposition of a fine or civil penalty, the suspension, modification or revocation of a license, permit, registration, certification or similar authorization issued by an agency or an executed settlement agreement unless the agreement is determined to be confidential by a court.
- (B) Deprive a person of the right to an impartial adjudication.
- (C) Constitute an unwarranted invasion of privacy.
- (D) Hinder an agency's ability to secure an administrative or civil sanction.
- (E) Endanger the life or physical safety of an individual.

65 P.S. §§ 67.708(b)(17)(vi)(A-E).

Section 305(a) of the Radiation Protection Act states:

The department or its duly authorized representatives shall have the power to enter at all reasonable times with sufficient probable cause upon any public or private property, building, premise or place, for the purposes of determining compliance with this act, any license conditions or any rules, regulations or orders issued under this act. In the conduct of an investigation, the department or its duly authorized representatives shall have the authority to conduct tests, inspections or examination of any radiation source, or of any book, record, document or other physical evidence related to the use of a radiation source.

35 P.S. § 7110.305(a).

Section 215.12 of the Radiation Regulations states:

- (a) *Maintenance of records.* Licensees and registrants shall maintain records under this article and have these records available for inspection by the Department at

pertaining to routine inspections, noncompliance inspections or complaint-driven inspections, which are conducted within its statutory authority.

**Attorney Client Privilege/Attorney Work Product.**

The attorney-client privilege provides that:

In a civil matter counsel shall not be competent or permitted to testify to confidential communications made to him by his client, nor shall the client be compelled to disclose the same, unless in either case this privilege is waived upon the trial by the client.

42 Pa. C.S. § 5928.

According to the above statute, four elements must be satisfied in order to successfully invoke the protections of the attorney-client privilege: (1) the asserted holder of the privilege is or sought to become a client, (2) the person to whom the communication was made is a member of the bar of a court, or his subordinate, (3) the communication relates to a fact of which the attorney was informed by his client, without the presence of strangers, for the purpose of securing either an opinion of law, legal services or assistance in a legal matter, and not for the purpose of committing a crime or tort, and (4) that privilege has been claimed and is not waived by the client. It also covers confidential client to attorney communications and confidential attorney to client communications made for the purpose of obtaining or providing legal advice. *Gillard v. AIG Insurance Co.*, 15 A.3d 44 (Pa. 2011).

The RTKL defines "Privilege" as "the attorney-work product doctrine, the attorney-client privilege, the doctor-patient privilege, the speech and debate privilege or other privilege recognized by a court interpreting the laws of this Commonwealth." 65 P.S. § 67.102. The OOR has properly acknowledged the attorney-client privilege even applies to less formal communications, such as e-mails, between a public agency and its attorneys. *Guster v. Jefferson Township*, No. AP-2009-0367 (Pa. O.O.R.D. June 5, 2009).

Consistent with these criteria, the CO has withheld 82 records because of attorney-client privilege and attorney-work product privileges. The withheld pages contain legal advice from Department counsel to staff regarding noncriminal investigations, enforcement actions, and media inquiries.

**Personal Identification Information**

The RTKL exempts personal identification information from disclosure. 65 P.S. § 67.708(b)(6). Personal identification information includes, but is not limited to a person's Social Security number, driver's license number, personal financial information, home, cellular or personal telephone numbers, personal e-mail addresses, employee number, or other confidential personal identification number.

The personal identification information of concern are Department employees' email addresses and internal telephone numbers. However, these records are the records previously accounted for and also withheld under the "regulatory preclusion," and the noncriminal investigation exception asserted within this response.

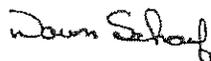
This rationale of telephone numbers being specific to an individual and thus being deemed personal extends to government-issued "personal" cellular telephones as well as assigned personal telephone extensions. The fact that government business may be discussed over an employee's government-issued personal cellular telephone does not make that telephone any less "personal" within the meaning of the RTKL. *Office of the Governor v. Raffle*, 65 A.3d 1105 (Pa. Cmwlth. 2013). Personal does not mean that it has to involve a public official's "personal affairs" but are personal to that official in carrying out public responsibilities. *City of Philadelphia v. Philadelphia Inquirer*, 52 A.3d 456, 461 (Pa. Cmwlth. 2012). Both government issued telephone numbers and direct desk telephone extensions, are clearly personal to that official for carrying out the duties of Commonwealth employment. The same analysis applies to government issued personal emails. Consequently, as PII, it is appropriate for the Department to withhold these records. *See also: Department of Public Welfare v. Clofine*, 706 C.D. 2013 (Pa. Cmwlth. February 20, 2014) (*unpublished*).

However, you have a right to appeal this response in writing to the Executive Director, Office of Open Records (OOR), Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, Pennsylvania 17120. If you choose to file an appeal you must do so within 15 business days of the mailing date of this response and send to the OOR:

- 1) all Department responses;
- 2) your request; and
- 3) the reason why you think the Department is wrong in its response.

Also, the OOR has an appeal form available on the OOR website at: <http://www.openrecords.pa.gov/Using-the-RTKL/Pages/RTKLForms.aspx#.Voa6lRwo7X5>.

Sincerely,



Dawn Schaef  
Agency Open Records Officer

Enclosure

cc: RTK CO Legal via email  
RTK CO COM, OG, RP via email  
RTK SE NE SC NC SW NW via email



# pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RADIATION PROTECTION PROGRAM

June 15, 2010

## NOTICE OF VIOLATION

PRIORITY MAIL DELIVERY CONFIRMATION NO. [REDACTED]

[REDACTED]  
ProTechnics, a Division of Core Laboratories, LP  
[REDACTED]

Re: License No. [REDACTED]  
EFACTS Inspection ID No. [REDACTED]  
EFACTS Enforcement ID No. [REDACTED]

Dear [REDACTED]

The Department is aware that ProTechnics, a Division of Core Laboratories, LP (ProTechnics) was enlisted by [REDACTED] to conduct a radioactive tracer study at [REDACTED] (well site/ temporary job site), located in [REDACTED]. Under License [REDACTED], ProTechnics injected [REDACTED] into the ground to measure the effectiveness of the fracture stimulation.

Flow-back, which is the surface flow of the injected material, occurred. Materials including, but not limited to geo-synthetic fabric and a pond liner (residual waste) were contaminated by this process. The contaminated residual waste was transported to the McKean County Landfill (MCL) in Sergeant Township, McKean County. Upon entering the landfill, an alarm was signaled and MCL notified the Department.

On June 1, 2010, two roll off containers containing the radioactive residual waste were transported from MCL to the well site. The radioactive residual waste remains in storage for *in situ* decay.

The following violations were observed:

1. 25 Pa. Code § 217.1(a) states, in part, "A person may not receive, possess, use, transfer, own or acquire radioactive material except as authorized under a specific license or general license."

June 15, 2010

ProTechnics failed to transfer radioactive material to an authorized entity. Specifically, residual waste containing [REDACTED] (licensed material) was transferred to a facility that was not licensed to handle or dispose of the radioactive material. Be advised that this is a repeat violation since ProTechnics was previously cited in a Notice of Violation dated January 28, 2010.

2. License [REDACTED] states, in part "Licensed material may be used or stored only at temporary job sites in Pennsylvania."

ProTechnics failed to comply with the terms of License [REDACTED] since control of the licensed material was lost. Specifically, licensed material was transported from the temporary job site to MCL, where it was stored from May 21, 2010 to May 28, 2010.

3. License [REDACTED] states, in part, "The licensee is authorized to store for *in situ* decay radioactive material listed in Items 6.A., 6.B., and 6.C that is released during an uncontrolled well reversal or "flowback" in accordance with procedures listed in the application dated January 6, 2010."

ProTechnics failed to comply with the terms of License [REDACTED], since they did not adhere to the Section IV of the Emergency and Operating Procedures provided on January 6, 2010. Specifically, Section IV, Part 7.2.2 requires that ProTechnics inform the well owner/operator of well reversal procedures prior to the tracer operation and that the material from the well reversal be directed toward an earthen barrier. Furthermore, Part 7.4.1 requires that the activity not only be placed in the earthen barrier, but that it be covered with a minimum of 2 feet of clean soil. ProTechnics did not adhere to their Operating and Emergency Procedures, since the residual waste was not directed to the earthen barrier and covered with clean soil.

You are hereby notified of the existence of violations as well as the need to provide prompt corrective action. Failure to correct the violations may result in legal proceedings under the Radiation Protection Act. Under the Act, each day of violation is considered a distinct and separate offense and will be handled accordingly.

The violations described above constitute a public nuisance under Section 309 of the Radiation Protection Act, 35 P.S. § 7110.309, and may subject you, under Section 308(e) of the Radiation Protection Act, 35 P.S. § 7110.308(e), to civil penalty liability of up to TWENTY-FIVE THOUSAND DOLLARS (\$25,000) for each violation plus up to FIVE THOUSAND DOLLARS (\$5,000) per day for each continuing day of violation.

June 15, 2010

[REDACTED]

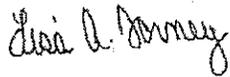
You are requested to attend an informal administrative conference with Department representatives on July 7, 2010 at 10:30 AM at the Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110. Options for settlement of the above-described violations will be discussed at that time. Finally, we recommend that you correct any outstanding violations at the Site prior to this conference and that you bring documentation of the corrective actions to the conference.

Please notify this office by June 28, 2010 to confirm your attendance at the conference described above. Also, please inform us if your attorney will be attending the meeting.

This Notice of Violation is neither an order nor any other final action of the Department. It neither imposes nor waives any enforcement action available to the Department under any of its statutes.

Thank you for your cooperation.

Sincerely,



Lisa A. Forney  
Compliance Specialist  
Radiation Protection Program

cc: [REDACTED] ProTechnics  
[REDACTED] ProTechnics



Pennsylvania Department of Environmental Protection

909 Elmerton Avenue  
Harrisburg, PA 17110-8200  
January 28, 2010

Southcentral Regional Office

717-705-4703  
FAX - 717-705-4890

NOTICE OF VIOLATION

PRIORITY MAIL DELIVERY CONFIRMATION NO. [REDACTED]

[REDACTED]  
Core Laboratories, L.P. - ProTechnics Division  
[REDACTED]  
[REDACTED]

Re: License No. [REDACTED]

Dear [REDACTED]

The Department is aware that the services of Core Laboratories, L.P. - ProTechnics Division (ProTechnics) were enlisted by [REDACTED] in order to conduct a radioactive tracer study at the [REDACTED], located along [REDACTED]. On December 10, 2009, ProTechnics injected a gel solution, which was comprised of water, sand and [REDACTED] under Pennsylvania Reciprocity License No. [REDACTED] and [REDACTED]. After the injection of [REDACTED] the ProTechnics' field technician left the well site.

Following ProTechnics' departure from the well site, [REDACTED] pumped sand and water, which were contaminated with [REDACTED] to the surface. [REDACTED] removed the radioactive material from an on-site tank on December 21, 2009 and transported the radioactive material to the [REDACTED]. [REDACTED] in turn, transported a roll-off container, which included the radioactive material to Modern Landfill for disposal on December 22, 2009. Upon entering the scale at Modern Landfill, a radiation monitor was alarmed and Modern Landfill notified the Department of this event.

The following violation is noted:

- 25 Pa. Code § 217.1(a) requires that a person may not receive, possess, use, transfer, own or acquire radioactive material except as authorized under a specific license. Specifically, [REDACTED] require that the released radioactive material be possessed, handled and/or disposed in a manner outlined in the procedures submitted with the license application.

ProTechnics failed to ensure proper handling and disposal of the radioactive material after it had been pumped to the surface and sent for disposal at an off-site location.

January 28, 2010

The Department is in receipt of an incident report, which described the corrective actions taken. Be advised that no additional response is necessary at this time.

This Notice of Violation is neither an order nor any other final action of the Department. It neither imposes nor waives any enforcement action available to the Department under any of its statutes.

Thank you for your cooperation. If you have any questions, please call me at 717-705-4898.

Sincerely,



Lisa A. Forney  
Compliance Specialist  
Radiation Protection Program

cc: [REDACTED] Core Laboratories, L.P.- Protechnics Division



**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
RADIATION PROTECTION PROGRAM

November 2, 2010

PRIORITY MAIL DELIVERY CONFIRMATION NO. [REDACTED]

[REDACTED]  
ProTechnics Division of Core Laboratories LP  
[REDACTED]

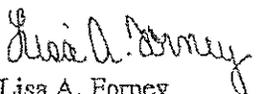
Re: License No. [REDACTED]

Dear [REDACTED]

Enclosed is an executed copy of the Consent Order and Agreement (COA), which is dated November 2, 2010. This will also acknowledge receipt of check number 660223 in the amount of \$29,000.00 in accordance with the COA.

Thank you for your cooperation. If you have any questions, please feel free to contact me at 717.705.4898.

Sincerely,

  
Lisa A. Forney  
Compliance Specialist  
Radiation Protection Program

Enclosures

cc: General Counsel with enclosure

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of:

ProTechnics Division of Core Laboratories L.P.  
[REDACTED]

Violations of the Radiation Protection Act of  
July 10, 1984, P.L. 688, No. 147, 35 P.S. §  
7110.101 *et seq.* and 25 Pa. Code § 217 *et seq.*  
License No. [REDACTED]

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement (COA) is entered into this 2<sup>nd</sup> day of November, 2010, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (the "Department"), and ProTechnics Division of Core Laboratories LP ("ProTechnics"), aka ProTechnics, a Core Laboratories Company ("ProTechnics").

Findings

The Department has found and determined the following findings which ProTechnics agrees are true and correct.

- A. The Department is the agency with the duty and authority to administer and enforce the Radiation Protection Act, Act of July 10, 1984, P.L. 688, No. 147, 35 P.S. § 7110.101 et seq. ("The Act") and Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, as amended, 71 P.S. § 510-17 ("Administrative Code"); and the rules and regulations promulgated thereunder.
- B. ProTechnics conducts business at [REDACTED] is the [REDACTED] of ProTechnics.
- C. ProTechnics is contracted by well owners and/or well operators ("Well Owner/Operator") to inject radioactive material into gas wells, which are intended to extract natural gas from the Marcellus Shale Formation. The injection is necessary to determine the effectiveness of hydraulic fracturing.
- D. On April 1, 2008, the Department granted the Reciprocity General License [REDACTED] to ProTechnics. License [REDACTED] authorized ProTechnics to conduct radioactive tracer studies within Pennsylvania in accordance with Texas Radioactive Material License Number [REDACTED] expired on April 1, 2009.

- E. On April 20, 2009, the Department granted the renewal of Reciprocity General License [REDACTED]. The license remained in effect until April 30, 2010.
- F. On December 10, 2009, ProTechnics injected [REDACTED] containing [REDACTED] at the [REDACTED] well site in [REDACTED]. Following ProTechnics' departure from the [REDACTED] a flow back incident occurred, which produced radioactive residual waste. The radioactive residual waste was transported from the site and directed for disposal by a third party.
- G. On December 22, 2009, Modern Landfill notified the Department that a load of waste had alarmed their radiation monitors. The source was identified as [REDACTED] in residual waste from [REDACTED].
- H. On December 30, 2009, ProTechnics attended a meeting with Department representatives and agreed to apply for a Pennsylvania Radioactive Materials License.
- I. On January 26, 2010, ProTechnics submitted an incident report and affirmed their commitment to obtain a Pennsylvania Radioactive Materials License.
- J. On January 28, 2010, the Department issued a Notice of Violation ("NOV") to ProTechnics for failing to adhere to the terms of Texas Radioactive Material License Number [REDACTED] and reciprocity general license [REDACTED].
- K. Pennsylvania Radioactive Materials License [REDACTED] was issued on February 26, 2010 and remains in full effect through February 26, 2020.
- L. [REDACTED] ("Well Owner/Operator") contracted ProTechnics to inject radioactive tracer into a series of wells located along the [REDACTED] in [REDACTED]. The injections occurred between April 17, 2010 and April 23, 2010.
- M. On April 17, 2010, representatives from the Well Owner/Operator and ProTechnics signed a well tracer agreement for [REDACTED]. The agreement described the necessary actions to be taken in the event of a well flow back/ well reversal and authorized the placing of well returns (containing radioactive tracer material) for decay *In Situ* on Site.
- N. ProTechnics conducted a Site survey on April 23, 2010 prior to their departure.
- O. Between the dates of April 23, 2010 and April 27, 2010, licensed radioactive material returned to the surface or flowed back at [REDACTED] ("flow back incident"). Well returns, containing approximately 0.078% of the injected quantity of [REDACTED], were collected onto a tarped area around the well and allowed to evaporate. The tarp was cut into pieces and directed for disposal by a third party.

- P. On May 21, 2010, Rustick, LLC McKean County Landfill ("McKean County Landfill") notified the Department that a load of waste had alarmed their radiation monitors. The source was identified as [REDACTED] in residual waste, including, but not limited to the tarp from the Site.
- Q. On May 24, 2010, the Well Owner/Operator contacted ProTechnics and advised them of the flow back incident at [REDACTED] and subsequent radiation alarm at McKean County Landfill.
- R. On June 1, 2010, the radioactive residual waste was returned to the Site for decay *In Situ*. ProTechnics posted a sign and placed a fence around the area containing the radioactive residual waste.
- S. ProTechnics violated the regulatory requirements under the Act as follows:
1. ProTechnics failed to transfer radioactive material to an authorized entity that was licensed to handle radioactive material, in violation of 25 Pa. Code § 217.1(a).
  2. ProTechnics failed to only use or store licensed material at temporary job sites in Pennsylvania, as required by [REDACTED] and 25 Pa. Code § 217.1(a).
  3. ProTechnics failed to adhere to the Emergency and Operating Procedures included in License [REDACTED] in violation of License [REDACTED] Condition [REDACTED] and 25 Pa. Code § 217.1(a).
  4. ProTechnics failed to submit a report and a signed agreement from the property owner authorizing storage for Decay *In Situ* within 30-days of an uncontrolled well reversal, in violation of License [REDACTED] Condition [REDACTED] and 25 Pa. Code § 217.1(a).
- T. On June 15, 2010, the Department issued an NOV to ProTechnics, for the violations listed in Paragraph S, above.
- U. On July 12, 2010, an administrative enforcement conference was held between ProTechnics and representatives of the Department. ProTechnics provided the [REDACTED] Site Agreement dated April 17, 2010; a draft of proposed changes to the well site agreement; as well as copies of job site survey forms.
- V. On July 13, 2010, ProTechnics submitted a report to the Department, as well as a description of proposed corrective actions.
- W. On July 23, 2010, the Department sent a deficiency letter requesting a 30-day report, which included all items listed in License [REDACTED] Condition [REDACTED]
- X. On July 28, 2010, ProTechnics provided a response letter; a copy of the April 17, 2010 [REDACTED] site agreement and a copy of ProTechnics' guidelines for radioactive tracers during well stimulations.

- Y. The violations described in Paragraph S, above constitute unlawful conduct under Section 307 of the Radiation Protection Act, 35 P.S. § 7110.307, a public nuisance under Section 309(a) of the Radiation Protection Act, 35 P.S. § 7110.309(a), and subjects ProTechnics to civil penalty liability under Section 308(e) of the Radiation Protection Act, 35 P.S. § 7110.308(e).

#### ORDER

After full and complete negotiation of all matters set forth in this COA and upon mutual exchange of the covenants herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ORDERED by the Department and AGREED to by ProTechnics as follows:

1. Authority. This COA is an Order of the Department authorized and issued pursuant to Section 308(e) of the Radiation Protection Act, 35 P.S. § 7110.308(e) and Section 1917-A of the Administrative Code, *supra*. The failure of ProTechnics to comply with any term or condition of this Consent Order and Agreement shall subject ProTechnics to penalties and remedies provided by those statutes for failing to comply with an order of the Department.
2. Findings.
  - a. ProTechnics agrees that the findings in paragraphs A through Y are true and correct and in any matter or proceeding involving ProTechnics and the Department, ProTechnics shall not challenge the accuracy or validity of these findings.
  - b. The parties do not authorize any other persons to use the findings in the COA in any matter or proceeding.
3. Corrective Actions.
  - a. ProTechnics shall provide a copy of the Radioactive Tracer Well Site Agreement in Attachment A to each Well Owner/Operator who contracts ProTechnics to conduct a radioactive tracer study within Pennsylvania.
  - b. ProTechnics and the Well Owner/Operator shall sign and complete a Radioactive Tracer Well Site Agreement for each well that is traced in Pennsylvania. Within five business days of completing the form, ProTechnics shall submit a copy to the Department.
  - c. Prior to tracing each well, ProTechnics shall provide an instructional session to the Well Owner/Operator which includes, but is not limited to general radiation safety principles, as well as procedures for handling flow back incidents and acceptable methods of disposal. ProTechnics shall document that training was provided and provide copies to the Department upon request.

- d. Within 14 days of the execution of this COA, ProTechnics shall submit a license amendment request to the Department to amend License [REDACTED] as follows:
1. ProTechnics shall request that License [REDACTED], Condition [REDACTED] be amended to exclude the term "Property Owner."
  2. ProTechnics shall request that License [REDACTED] be amended to include the submission of the completed Radioactive Tracer Well Site Agreement within five business days of signature and completion.
  3. ProTechnics shall request that License [REDACTED] be amended to include that ProTechnics make arrangements with the Well Owner/Operator to ensure the stabilization of each earthen barrier containing radioactive residual waste for *In Situ* decay within Pennsylvania. ProTechnics shall conduct a minimum of one inspection per year which shall include, but not be limited to an assessment of the integrity of the area, markings, and fencing; the adequacy of stabilization, an indication of any maintenance that may be required; and documentation that the inspection was completed.
  4. ProTechnics shall request that License [REDACTED] Condition [REDACTED] be amended to include that ProTechnics will provide notification to the Department in accordance with Paragraph 10 of this COA.
  5. ProTechnics shall request that License [REDACTED] be amended to include that ProTechnics will immediately notify the Department upon confirmation that licensed radioactive material is contained within flow back/ well returns.
- e. In the event of a flow back incident, ProTechnics shall contain the well reversals containing licensed radioactive material to the on site earthen barrier, in accordance with Section 7 of the Emergency and Operating Procedures included in License [REDACTED] Condition [REDACTED]
- f. Upon confirmation that licensed material has returned to the surface, ProTechnics shall immediately notify the Department in accordance with Paragraph 10 of this COA. This shall apply to all well returns / flow back containing licensed radioactive material regardless if it is controlled or uncontrolled and regardless of the quantity of licensed material that reaches the surface.
- g. ProTechnics shall conduct and document a complete survey and sketch of the area surrounding the well returns / flow back containing licensed material in accordance with Section 7.1.4 of the Emergency and Operating Procedures included in License [REDACTED] Condition [REDACTED] ProTechnics shall provide copies of the completed survey form to the Department upon request.

- h. ProTechnics shall submit a report, which summarizes the events that caused licensed radioactive material to flow back and all actions taken following the incident. The report shall be in accordance with the terms of License [REDACTED], Condition [REDACTED] and shall be submitted within 30 days of the flow back of licensed material.
4. **Civil Penalty Settlement.** Upon signing this COA, ProTechnics shall pay the civil penalty of TWENTY NINE THOUSAND DOLLARS (\$29,000.00). Subject to Paragraph 5, below, this payment is in settlement of the Department's claim for civil penalties for the violations set forth in Paragraph 3, herein. The payment shall be by corporate check or the like, made payable in the following manner and to the referenced parties: (a). Payment in the amount of TWENTY NINE THOUSAND DOLLARS (\$29,000.00), to the "Commonwealth of Pennsylvania, Radiation Protection Fund," and sent c/o Ms. Lisa A. Fomey, Compliance Specialist, DEP Southcentral Region, Radiation Protection Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.
5. **Stipulated Civil Penalties.**
- a. In the event that ProTechnics fails to comply in a timely manner with the provisions of this COA, ProTechnics shall be in violation of this COA and, in addition to other applicable remedies, shall pay a civil penalty in the amount determined under the following schedule:
1. For any documented violation of Paragraph 3, ProTechnics shall pay of civil penalty of FIVE HUNDRED DOLLARS (\$500.00) per day for each violation.
- b. Stipulated civil penalty payments shall be payable monthly on or before the fifteenth day of each succeeding month, and shall be forwarded as described in Paragraph 4, above.
- c. Any payment under this paragraph shall neither waive the duty of ProTechnics to meet their obligations under this COA, nor preclude the Department from commencing an action to compel ProTechnics with the terms and conditions of this COA. The payment resolves the liability of ProTechnics only for civil penalties arising from the violation of this COA, for which the payment is made.
- d. Stipulated civil penalties shall be due automatically and without notice.
6. **Additional Remedies.**
- a. In the event that ProTechnics fails to comply with any provision of this COA, the Department may, in addition to the remedies prescribed herein, pursue any remedy available for a violation of an order of the Department, including any action to enforce this COA.

- b. The remedies provided by this paragraph and paragraph 5 are cumulative and the exercise of one does not preclude the exercise of any other. The failure of the Department to pursue any remedy shall not be deemed to be a waiver of that remedy. The payment of a stipulated penalty, however, shall preclude any further assessment of civil penalties for the violation for which the civil penalty is paid.
7. **Reservation of Rights.** The Department reserves the right to require additional measures to achieve compliance with the applicable law. ProTechnics reserves the right to challenge any action which the Department may take to require those measures.
8. **Liability of Operator.** ProTechnics shall be liable for any violations of the COA, including those caused by, contributed to, or allowed by its officers, agents, employees or contractors. ProTechnics also shall be liable for any violation of this COA caused by, contributed to, or allowed by its successors and assigns.
9. **Transfer of Site.** The duties and obligations under this COA shall not be modified, diminished, terminated, or otherwise altered by the transfer of any legal or equitable interest in any Pennsylvania Site, where ProTechnics is contracted to conduct radioactive tracer studies or any part thereof.
10. **Correspondence with the Department.** All correspondence with the Department concerning this COA shall be addressed to:

Ms. Lisa A. Forney, Compliance Specialist  
DEP, Southcentral Regional Office  
909 Elmerton Avenue  
Harrisburg, PA 17110-8200  
717-705-4898.  
[lforney@state.pa.us](mailto:lforney@state.pa.us)

And

Mr. John Chippo, Radiation Protection Program Supervisor  
PA DEP Rachel Carson State Office Building  
400 Market Street  
Harrisburg, PA 17105  
717-787-2208  
[jchippo@state.pa.us](mailto:jchippo@state.pa.us)

11. **Correspondence with ProTechnics.** All correspondence with ProTechnics shall be addressed to:

[REDACTED]  
ProTechnics, a Division of Core Laboratories, L.P.  
[REDACTED]

And

General Counsel  
[REDACTED]

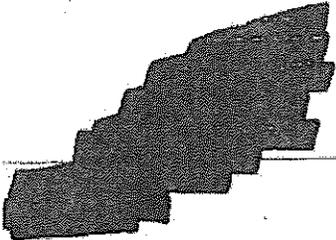
ProTechnics shall notify the Department whenever there is a change in its contact person's name, title or address. Service of any notice or any legal process for any purpose under this COA, including its enforcement, may be made by mailing a copy by first class mail to the above address.

12. Severability. The paragraphs of this COA shall be severable and should any part hereof be declared invalid and unenforceable, the remainder shall continue in full force and effect between parties.
13. Entire Agreement. This COA shall constitute the entire integrated agreement of the parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for purposes of determining the meaning or extent of any provisions herein in any litigation or any other proceeding.
14. Attorney Fees. The parties shall bear their representative attorney fees, expenses and other costs in the prosecution or defense of this matter or any related matters, arising prior to the execution of this COA.
15. Modifications. No changes, additions, modification or amendments of this COA shall be effective unless they are set out in writing and signed by the parties hereto.
16. Decisions Under Consent Order. Any decision which the Department makes under the provisions of this COA shall not be deemed to be a final action of the Department, and shall not be appealable to the Environmental Hearing Board or to any court. Any objection which ProTechnics may have to the decision will be preserved until the Department enforces this COA. At no time, however, may ProTechnics challenge the content or validity of this COA, or challenge the Findings agreed to in this COA.
17. Titles. A title used at the beginning of any paragraph of this COA is provided solely for the purposes of identification and shall not be used to interpret that paragraph.
18. Termination. The obligations of Paragraphs 1-18 shall terminate when the Department deems that ProTechnics has completed the actions required in Paragraph 3, paid the civil penalty assessed in Paragraph 4, and paid any stipulated penalties due under Paragraph 5, above. Upon the Department's determination that the obligations of Paragraphs 1-19 have been satisfactorily met, the Department shall provide a written statement to conclude this COA.

IN WITNESS WHEREOF, the parties have caused the COA to be executed by their duly authorized representatives. The undersigned representatives of ProTechnics certify, under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this COA on behalf of ProTechnics, that ProTechnics consents to the entry of this COA as an ORDER of the Department, that ProTechnics hereby knowingly waives any right to a hearing under the statutes referenced in this COA, and that ProTechnics knowingly waives their right to appeal this COA and the foregoing Findings, which rights may be available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 1039a) and Chapters 5A and 7A, or any other provision of law.

FOR PROTECHNICS DIVISION  
OF CORE LABORATORIES LP:

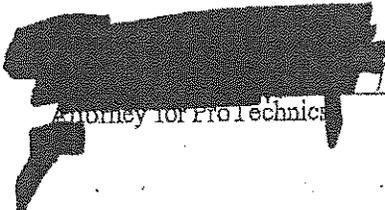
FOR THE COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION:



11/1/10  
Date

*John F. Krueger*  
John F. Krueger  
Radiation Protection Program

11/2/10  
Date



11/1/2010  
Date

*Martin R. Siegel*  
Martin R. Siegel  
Assistant Counsel

11/1/10  
Date

## Attachment A

## RADIOACTIVE TRACER WELL SITE AGREEMENT

By signature below, the parties hereby agree to the requirements set out below for handling well reversal, well returns, or flowback ("Well Returns") containing radioactive tracer material. The Pennsylvania Department of Environmental Protection, Bureau of Radiation Protection ("PA DEP") has approved the placing of Well Returns containing radioactive tracer material in an on-site earthen barrier for decay *in situ* for three years from the date of radioactive tracer material injection. The following steps must be taken when handling Well Returns containing radioactive tracer material.

1. The Well Owner/Operator shall notify ProTechnics [REDACTED] within 24 hours of Well Returns containing any solid materials. ProTechnics shall survey such returns for the presence of radioactive tracer material within 2 business days after notification from the Well Owner/Operator.
2. All Well Returns containing radioactive tracer material shall be diverted to the on-site earthen barrier. If the Well Returns are first diverted to on-site tanks, the tanks must be surveyed prior to removal from the well site. ProTechnics shall survey all equipment, location ground site cover tarps, holding tanks, or anything else that may have come into contact with the Well Returns within 2 days after notification from the Well Owner/Operator and prior to removal from the well site. The Well Owner/Operator shall notify ProTechnics within 24 hours of any such contamination.
3. The earthen barrier will be covered with two feet of stabilized clean soil and stabilized in accordance with 25 Pa. Code § 102.1 *et seq.*, the Site's approved Erosion and Sediment Control Plan, 25 Pa. Code § 78.1 *et seq.*, and the respective Oil and Gas Permit (Oil and Gas Well Permit No. \_\_\_\_\_).
4. Upon establishment, the earthen barrier shall be identified by GPS coordinates. Access to this area will be restricted by a durable fence.
5. The earthen barrier will be posted with signage: Caution – Radioactive Material – Keep Out – Do Not dig in this area before (Date: \_\_\_\_\_) – notify ProTechnics [REDACTED] for additional information.
6. This signed agreement between the Well Owner/Operator and ProTechnics for radioactive material decay *in situ* in the earthen barrier will be kept on file by ProTechnics and a copy sent to PA DEP to become incorporated into the ProTechnics' Radioactive Material License for the well location listed below.
7. Both the access control fence and the earthen barrier integrity must be maintained by the Well Owner/Operator for 3 years from the date of tracer material injection or approximately (Date: \_\_\_\_\_). All associated signage and fences shall be removed within 30 days of the above date.
8. Any failure by the Well Owner / Operator to promptly report solid material Well Returns which contain radioactive materials or to control such radioactive materials onsite may subject both ProTechnics and the Well Owner/Operator to regulatory enforcement by PA DEP.

ProTechnics reserves the right to supervise any necessary decontamination activities should any actions occur that result in the loss of integrity of the earthen barrier.

This agreement will be attached and incorporated into ProTechnics' Radioactive Materials License Number [REDACTED] which is administered by PA DEP, until the date specified in Item #7.

RADIOACTIVE TRACER WELL SITE AGREEMENT ( Continued)

\_\_\_\_\_  
Printed Name  
Radiation Safety Officer  
ProTechnics, Division of Core Laboratories LP

\_\_\_\_\_  
Signature  
Radiation Safety Officer  
ProTechnics  
Division of Core Laboratories LP

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Printed Name  
Well Owner/ Operator  
Representative

\_\_\_\_\_  
Signature  
Well Owner/ Operator  
Representative

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Company Name  
Well Owner/Operator

\_\_\_\_\_  
Well Name:  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

\_\_\_\_\_  
Earthen Barrier / Storage Pit Location  
(Approximate GPS Coordinates -- Please  
Indicate If Not Applicable)

\_\_\_\_\_  
Company Mailing Address  
Well Owner/Operator

## Attachment B



ProTechnics  
A Div. of Core Laboratories LP

www.protechnics.com

### TRACER WELL SITE AGREEMENT

By signature below, the parties hereby agree to the requirements set out below for handling well returns containing tracer material. The State of Pennsylvania has approved the placing of well returns containing tracer material in an on site earthen barrier for decay in situ. The following steps must be taken when handling well returns containing tracer material.

1. All well returns containing gamma emitting tracer material shall be diverted to the on site earthen barrier.
2. The earthen barrier will be covered with two feet of clean soil.
3. The earthen barrier shall be identified by GPS coordinates. This area will be restricted by the use of a durable barrier.
4. The earthen barrier will posted with signage (Caution - Radioactive Material - Keep Out - Do not dig in this area - notify ProTechnics [redacted] for additional information.
5. This signed agreement between the Company below and ProTechnics for decay in situ will be kept on file by ProTechnics.
6. Access control of the earthen barrier must be maintained by the well owner/operator until 3 Years. The signs can be removed at this time.

ProTechnics reserves the right to supervise any necessary decontamination activities should any actions occur that result in the loss of integrity of the earthen barrier.

Dated and signed April 17<sup>th</sup>, 2010

[redacted]  
ProTechnics Division of Core Laboratories LP

[redacted]  
Representative

4/17/10  
Date Signed

[redacted]  
Well Owner/Operator

[redacted]  
Well Name:

Pennsylvania 2/25/2010



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
RADIATION PROTECTION PROGRAM

November 26, 2013

NOTICE OF VIOLATION

PRIORITY MAIL DELIVERY CONFIRMATION NO. [REDACTED]

[REDACTED]  
ProTechnics, a Division of Core Laboratories, L.P.

[REDACTED]

Re: License No. [REDACTED]  
EFACTS Inspection ID No. [REDACTED]  
EFACTS Enforcement ID No. [REDACTED]

Dear [REDACTED]

In response to a report of unidentified radioactive material alarming the radiation monitor at Alliance Landfill located at 398 South Keyser Avenue, Taylor Borough, Lackawanna County, Pennsylvania, Mr. Richard Croll conducted inspections on September 13, 2013 (Inspection ID [REDACTED]). A subsequent records review was conducted on November 14, 2013 (Inspection ID [REDACTED]). Based upon the inspection findings, violations of the Department of Environmental Protection's (Department) rules and regulations were revealed. The regulations are available at [www.dep.state.pa.us/brp](http://www.dep.state.pa.us/brp).

The following violations were observed:

1. 25 Pa. Code § 219.5(a) incorporates 10 CFR § 20.1802, which states, "The licensee shall control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage."

ProTechnics, a Division of Core Laboratories, L.P. (ProTechnics) failed to maintain control and constant surveillance of licensed material. Specifically, ProTechnics was hired by [REDACTED] to inject licensed material into gas wells at the [REDACTED] in [REDACTED] to evaluate the effectiveness of hydraulic fracturing. Following the injection, licensed material returned to the surface in a flow back incident. Flow back waste materials, drill-cuttings and municipal solid waste were placed into a roll-off container and subsequently transported to Alliance Landfill on September 9, 2013 for disposal. Upon entering the scale at Alliance Landfill, radiation monitors alarmed. The load was isolated, surveyed and traced back to activities at the [REDACTED]

2. 25 Pa. Code § 219.5(a) incorporates 10 CFR § 20.1902(e), which states, "The licensee shall post each area or room in which there is used or stored an amount of licensed material exceeding 10 times the quantity of such material specified in appendix C to part 20 with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL(S)" or "DANGER, RADIOACTIVE MATERIAL(S)."

November 26, 2013

ProTechnics failed to post a conspicuous sign bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL(S)" or "DANGER, RADIOACTIVE MATERIAL(S)" on roll-off containers located at [REDACTED] and the [REDACTED] in [REDACTED]. Specifically, the [REDACTED] revealed a roll-off container being filled directly from the flow back auger, which was not posted as required. A subsequent inspection of the [REDACTED] revealed a partially filled roll-off container of drill cuttings that was not properly posted.

3. 35. P.S. 7110.309(b) states, in part, "It shall be the duty of any person to comply with any order issued under this subsection." Specifically, Paragraph 3.b. of the Consent Order and Agreement dated November 2, 2013 (COA) states, "ProTechnics and the Well Owner/Operator shall sign and complete a Radioactive Tracer Well Site Agreement for each well that is traced in Pennsylvania. Within five business days of completing the form, ProTechnics shall submit a copy to the Department."

ProTechnics failed to provide a signed copy of the well-site agreement within 5 days of completing the form for each site where radioactive material was utilized within Pennsylvania. On September 25, 2013, the Department requested copies of all Radioactive Tracer Well Site Agreement forms completed since the execution of the COA. In correspondence dated August 26, 2013, ProTechnics indicated that licensed material was injected at five sites during the period and that proper notification had been provided. However, proper notification was not received by the parties indicated in the COA. Furthermore, the April 7, 2013 Radioactive Tracer Well Site Agreement was not completed in its entirety and Pennsylvania Radioactive Materials License Number [REDACTED] was listed in the place of the Oil and Gas Well Permit Number.

4. 35. P.S. 7110.309(b) states, in part, "It shall be the duty of any person to comply with any order issued under this subsection." Specifically, Paragraph 3.f. of the COA states, "Upon confirmation that licensed material has returned to the surface, ProTechnics shall immediately notify the Department in accordance with Paragraph 10 of this COA. This shall apply to all well returns / flow back containing licensed radioactive material regardless if it is controlled or uncontrolled and regardless of the quantity of licensed material that reaches the surface."

ProTechnics failed to immediately notify the Department upon confirmation that licensed material had returned to the surface at [REDACTED] and [REDACTED].

5. 35. P.S. 7110.309(b) states, in part, "It shall be the duty of any person to comply with any order issued under this subsection." Specifically, Paragraph 3.g. of the COA states, "ProTechnics shall conduct and document a complete survey and sketch of the area surrounding the well returns / flow back containing licensed material in accordance with Section 7.1.4 of the Emergency and Operating Procedures included in License PA-1400, Condition 14.A. ProTechnics shall provide copies of the completed survey form to the Department upon request."

ProTechnics failed to properly conduct and document a complete survey and sketch of the area surrounding the well return/flowback containing licensed materials at the [REDACTED].

November 26, 2013

6. 35 P.S. 7110.309(b) states, in part, "It shall be the duty of any person to comply with any order issued under this subsection." Specifically, Paragraph 3.h. of the COA states, "ProTechnics shall submit a report, which summarizes the events that caused licensed radioactive material to flow back and all actions taken following the incident. The report shall be in accordance with the terms of [REDACTED] and shall be submitted within 30 days of the flow back of licensed material."

ProTechnics failed to submit a 30 day report to summarize the events that caused licensed radioactive material to flow back to the surface as well as all actions taken following to the incident at the [REDACTED]

You are hereby notified of the existence of violations as well as the need to provide prompt corrective action. Failure to correct the violations may result in legal proceedings under the Radiation Protection Act (Act). Under the Act, each day of violation is considered a distinct and separate offense and will be handled accordingly.

The violations described above constitute a public nuisance under Section 309 of the Act, 35 P.S. § 7110.309, and may subject you, under Section 308(e) of the Act, 35 P.S. § 7110.308(e), to civil penalty liability of up to TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) for each violation plus up to FIVE THOUSAND DOLLARS (\$5,000.00) per day for each continuing day of violation.

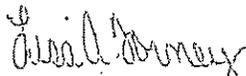
You are requested to attend an informal administrative conference with Department representatives on Tuesday, December 17, 2013 at 10:00 AM, at the Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110. Options for settlement of the above-described violations will be discussed at that time. Finally, we recommend that you correct any outstanding violations prior to this conference and that you bring documentation of the corrective actions to the conference.

Please notify this office by December 4, 2013 to confirm your attendance at the conference described above. Also, please inform us if your attorney will be attending the meeting.

This Notice of Violation is neither an order nor any other final action of the Department. It neither imposes nor waives any enforcement action available to the Department under any of its statutes.

Thank you for your cooperation. If you have any questions, please feel free to contact me at 717.705.4898.

Sincerely,



Lisa A. Forney, MEPE  
Compliance Specialist  
Radiation Protection Program

cc: General Counsel  
[REDACTED]



# pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
RADIATION PROTECTION PROGRAM

May 7, 2014

PRIORITY MAIL DELIVERY CONFIRMATION NO. [REDACTED]

[REDACTED]  
ProTechnics Division of Core Laboratories, LP  
[REDACTED]

Re: License No. [REDACTED]

Dear [REDACTED]

Enclosed is an executed copy of the Addendum to Paragraphs 3 and 11 of the Consent Order and Agreement dated November 2, 2010. If you have any questions, please call me at 717.705.4898.

Sincerely,

Lisa A. Forney, MEPC  
Compliance Specialist  
Radiation Protection Program

Enclosure

cc: [REDACTED]

ADDENDUM TO PARAGRAPHS 3 AND 11 OF THE CONSENT ORDER AND  
AGREEMENT DATED NOVEMBER 2, 2010 BY AND BETWEEN THE  
COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL  
PROTECTION ("DEPARTMENT") AND PROTECHNICS DIVISION OF CORE  
LABORATORIES, LP ("PROTECHNICS")

3. Corrective Actions.

- a. ProTechnics shall provide a copy of the revised "Instructions for Handling Well Returns Containing ProTechnics [REDACTED] Acknowledgement Form" ("Acknowledgement Form") in Attachment A to each Well Owner/Operator who contracts ProTechnics to conduct a radioactive tracer study within Pennsylvania. The revised Acknowledgement Form shall supersede the use and submission of the Well Site Agreement included in the Consent Order and Agreement dated November 2, 2010.
- b. ProTechnics and the Well Owner/Operator shall sign and complete an Acknowledgement Form for each well that is traced in Pennsylvania. Within five business days of completing the form, ProTechnics shall submit a copy to the Department.
- i. Within 14 days of the execution of this Addendum, ProTechnics shall submit a license amendment request to the Department to amend License [REDACTED] to include the submission of the completed Acknowledgement Form within five business days of signature and completion.

11. Correspondence with ProTechnics. All correspondence with ProTechnics shall be addressed to:

[REDACTED]  
ProTechnics, a Division of Core Laboratories, L.P.  
[REDACTED]

And

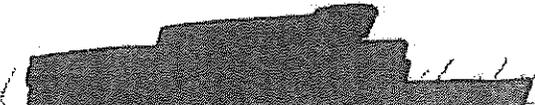
General Counsel  
[REDACTED]

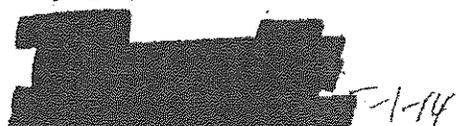
ProTechnics shall notify the Department whenever there is a change in its contact person's name, title or address. Service of any notice or any legal process for any purpose under this COA, including its enforcement, may be made by mailing a copy by first class mail to the above address.

IN WITNESS WHEREOF, the parties have caused the COA to be executed by their duly authorized representatives. The undersigned representatives of ProTechnics certify, under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this COA on behalf of ProTechnics, that ProTechnics consents to the entry of this COA as an ORDER of the Department,

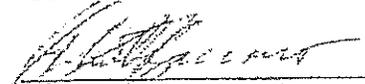
that ProTechnics hereby knowingly waives any right to a hearing under the statutes referenced in this COA, and that ProTechnics knowingly waives their right to appeal this COA and the foregoing Findings, which rights may be available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 1039a) and Chapters 5A and 7A, or any other provision of law.

FOR PROTECHNICS DIVISION OF  
CORE LABORATORIES, LP:

  
Date

  
-1-14  
Attorney for ProTechnics Date

FOR THE COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION:

 5/6/14  
Robert M. Zaccano Date  
Radiation Protection  
Program

 5/6/14  
Stevan Kip Portman Date  
Assistant Counsel

Attachment A

Attachment A

## Instructions for Handling Well Returns Containing ProTechnics ██████████ Acknowledgement Form

In some flowback situations, special handling of flowback materials may be required.

ProTechnics must be notified within 24 hours of well returns containing solids. ProTechnics will then survey the solids for elevated gamma readings. If a ProTechnics survey finds that the level requires special disposal, the Well Owner/Operator shall consult with ProTechnics prior to disposing of the waste.

Please indicate the pre-decided disposal option that will be utilized in the event of well returns requiring special handling:

- Option 1: On-site earthen barrier for decay *in situ* for 3 years.
- Option 2: Temporary onsite tank storage, then shipment to a licensed disposal facility.

|   |   |
|---|---|
| Well Owner/Operator Name                                    | Well Name   |
|   | Well Permit Number  |
|   |   |
| Well Owner/Operator Address                                 | Storage Pit Location<br>(Approximate GPS Coordinates - Option 1 only) |
| Owner/Operator Representative<br>(Printed Name & Job Title) | ProTechnics Site Supervisor<br>(Printed Name)                         |
| Owner/Operator Representative<br>(Signature)                | ProTechnics Site Supervisor<br>(Signature)                            |
|   |   |
|   |   |

Owner/Operator Declined to Sign Acknowledgement Form

Only complete this section following a flowback incident

|                                      |                                      |
|--------------------------------------|--------------------------------------|
| Date of Flowback Event: _____        | Date Elevated Level Confirmed: _____ |
| Date ProTechnics was Notified: _____ | Date of Notification to PaDEP: _____ |

## Instructions for Handling Well Returns Containing ProTechnics

- [REDACTED]
1. The Well Owner/Operator shall notify ProTechnics [REDACTED] within 24 hours of Well Returns containing any solid materials. ProTechnics shall survey such returns for the presence of radioactive tracer material within 2 business days of notification from the Well Owner/Operator.
  2. All Well Returns containing radioactive tracer material shall be diverted to the on-site earthen barrier. If the Well Returns are first diverted to on-site tanks, the tanks must be surveyed prior to removal from the well site. ProTechnics shall survey all equipment, ground cover tarps, holding tanks, or anything else that may have come into contact with the Well Returns within 2 days after notification from the Well Owner/Operator and prior to removal from the well site. The Well Owner/Operator shall notify ProTechnics within 24 hours of any such contamination.
  3. The earthen barrier will be covered with 2 feet of stabilized clean soil and stabilized in accordance with 25 Pa. Code § 102.1 *et seq.*, the Site's approved Erosion and Sediment Control Plan, 25 Pa. Code § 78.1 *et seq.*, and the respective Oil and Gas Permit.
  4. Upon establishment, the earthen barrier shall be identified by GPS coordinates. Access to the area will be restricted by durable fence.
  5. The earthen barrier will be posted with signage: Caution – Radioactive material – Keep Out – Do Not Dig in This Area before Date: \_\_\_\_\_ - Notify ProTechnics [REDACTED] for additional information.
  6. This signed acknowledgement form will be kept on file by ProTechnics and a copy sent the PA DEP for incorporation into ProTechnics Radioactive Materials License [REDACTED] or the well location indicated on page 1 of the acknowledgement form.
  7. Both the access control fence and the earthen barrier integrity must be maintained by the Well Owner/Operator for 3 years from the date of the tracer material injection or Date: \_\_\_\_\_. All associated signage and fences shall be removed within 30 days of the date listed in paragraphs 5 and 7.
  8. Any failure by the Well Owner/Operator to promptly report solid material Well Returns that contain radioactive materials or to control such radioactive materials or to control such radioactive materials onsite may subject both ProTechnics and the Well Owner/Operator to regulatory enforcement by PADEP.

ProTechnics reserves the right to supervise any necessary decontamination activities should any actions occur that result in the loss of integrity of the earthen barrier.



**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

February 8, 2016

VIA EMAIL

Kendra L. Smith, Esquire  
Smith Butz, LLC  
125 Technology Drive, Suite 202, Bailey Center 1  
Canonsburg, PA 15317  
[klsmith@smithbutzlaw.com](mailto:klsmith@smithbutzlaw.com)

Re: Right-to-Know Request Numbers: 1400-16-071 (CO), 4100-16-0027 (SE), 4200-16-023 (NE), 4300-16-019 (SC), 4400-16-010 (NC), 4500-16-018 (SW), 4600-16-029 (NW)

Dear Attorney Smith:

On February 1, 2016, the open-records officer of the Department of Environmental Protection (Department) received your written request for records and assigned it the tracking numbers listed above. The subject of your request requires its assignment to the Department's Central Office (CO) and the Southeast (SE), Northeast (NE), Southcentral (SC), Northcentral (NC), Southwest (SW), and Northwest (NW) Regional Offices. Each office has its own tracking number and may respond separately to your request for records in their possession. For purposes of this letter, the Department's CO is initially responding on behalf of all assigned offices under the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-67.3104 (RTKL).

You requested records for Core Laboratories d/b/a Protechnics, Division of Core Laboratories, LP located at the Yeager Drill Site, McAdams Road, Washington, Pennsylvania. You are seeking:

- Any and all approvals, permits, licenses/licensures, applications for permits and/or licenses, reciprocity letters, reciprocity licenses, reciprocity agreements and/or reciprocity arrangements, including, but not limited to all licenses issued by the Department to Core Laboratories d/b/a Protechnics, Division of Core Laboratories, LP (hereinafter, "Protechnics") for use, storage and possession of radioactive materials and/or other licensed material. Additionally, this request seeks any and all investigation reports, Notices of Violation(s), Consent Order and Agreement(s) issued to Protechnics by the Department and/or between Protechnics and the Department for any and all work or services performed by Protechnics at any natural gas well site in the Commonwealth of Pennsylvania. Included in this request is a request for copies of all Notices of Violation issued by the Department to Protechnics, including but not limited to Notices of Violation dated June 15, 2010, January 28, 2010, November 26, 2013, September 13, 2013 and October 14, 2013, Violation Numbers 677913, 677915, 677914, 682834, 682833, 682829, 682835 and all corresponding inspection reports, field notes and other related writings. Further, this request seeks any and all Consent Order and Agreements between the Department and Protechnics, including, but not limited to, Consent Orders and Agreements dated November 2, 2013 and November 2, 2010.

- Copies of all enforcement activity taken by the Department against Protechnics, including but not limited to Enforcement ID Numbers 305057, 259202 and 263973, as well as all inspection reports completed by the Department regarding Protechnics, including, but not limited to, Inspection ID Numbers 1891418, 1919964, 2147772, 2204156 and 2221258.
- Any and all Radioactive Tracer Well Site Agreements made between Protechnics and any well site operator(s) for each and every well traced in the Commonwealth of Pennsylvania that is or was submitted to the Department, including, but not limited to, the April 7, 2013, Radioactive Tracer Well Site Agreement between Protechnics and a well operator.
- Any and all notifications submitted to the Department by Protechnics or the associated operator or subcontractor regarding Protechnics confirmation that licensed material, including, but not limited to, radioactive material, was returned to the surface at any well site in which Protechnics operated/performed work or services in the Commonwealth of Pennsylvania.
- Any and all documents, correspondence, e-mails and any other communication(s) between Protechnics and the Department and/or Range Resources and the Department regarding Protechnics and any and all work/services performed in the Commonwealth of Pennsylvania by Protechnics.
- Any and all MSDS/SDS (material data safety sheets and safety data sheets) in the possession of the Department regarding any and all products utilized by Protechnics at any well site in Pennsylvania, including, but not limited to, all MSDS/SDS for Protechnics Radioactive Tracer Products, as well as any and all Chemical Frac Tracer ("CFT") products, including, but not limited to, CFT 1000, CFT 1100, CFT 1200, CFT 1300, CFT 2000, CFT 2100, CFT 1900, CFT 1700.

By your email on February 1, 2016, to Department Legal Counsel, Edward Stokan, you amended your RTKL request to the following:

- All drill sites in the Commonwealth, including but not limited to the Yeager Drill site as indicated in attachment 1 of the original request.

Under the RTKL, a written response to your request is due on or before February 8, 2016.

This is an interim response. Under the provisions of 65 P.S. §67.902(b)(2), you are hereby notified that your request is being reviewed for the reasons listed below and the Department will require up to an additional 30 days, until March 9, 2016, to issue a final response to your request.

- Compliance with your request may require the redaction of certain information that is not subject to access under RTKL.
- Your request is under legal review to determine whether a requested record is a "public record" for purposes of the RTKL.

- The extent or nature of the request precludes a response within the required time period.

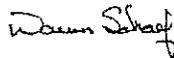
If you have requested an estimate of cost, the Department will only advise of prepayment costs if record production exceeds \$100.00. 65 P.S. § 1307(h). Otherwise, requested records will be produced and billed accordingly. If you are concerned about copying costs, you may wish to withdraw this request and conduct an informal file review. An informal file review allows self-copying at the reduced rate of \$.15 per page for standard size pages and provides you the opportunity to review and copy only those records you desire rather than all records the Department deems responsive to your request.

Further information about informal files reviews can be found at: <http://www.dep.pa.gov/Citizens/PublicRecords/Pages/Informal-File-Review.aspx#VpAasxwo7X4>. An informal file review does not preclude you from filing a RTKL request at a later date.

Lastly, if you elected to have records copied and mailed to you, the estimated or actual total for any fees owed when the record becomes available will be included in the Department's subsequent response. Prepayment is required before providing access when the estimated cost to fulfill a request exceeds \$100.00. 65 P.S. § 67.1307(h).

If you have any questions regarding this letter, please contact me.

Sincerely,



Dawn Schaefer  
Agency Open Records Officer

cc: RTK CO Legal via email  
RTK CO COM, OG, RP via email  
RTK SE NE SC NC SW NW via email

[Print](#) | [Close Window](#)

**Subject:** FW: New Right-to-Know Law Record Request Received - Kendra L. Smith, Esq. (565)  
**From:** "EP, Right-to-Know" <EP-DEP-RTK@pa.gov>  
**Date:** Mon, Feb 01, 2016 10:53 am  
**To:** "klsmith@smithbutzlaw.com" <klsmith@smithbutzlaw.com>  
**Cc:** "EP, Right-to-Know" <EP-DEP-RTK@pa.gov>  
**Attach:** RTKPDF.565.pdf

Attorney Smith-

Your attachment was not attached to your RTKL request. Please reply back to this email with your attachment. Thank you.

Agency Open Records Office  
Department of Environmental Protection | Bureau of Office Services  
Rachei Carson State Office Building  
400 Market St | Hbg PA 17101  
Phone: 717.787.2043 | Fax: 717.705.8023  
[www.dep.pa.gov](http://www.dep.pa.gov)

-----Original Message-----

**From:** ep-dep-rtk@pa.gov [mailto:ep-dep-rtk@pa.gov]  
**Sent:** Monday, February 01, 2016 10:28 AM  
**To:** EP, Right-to-Know  
**Subject:** New Right-to-Know Law Record Request Received - Kendra L. Smith, Esq. (565)

A new Right-to-Know Law Record Request has been Received. A copy of the request has been attached to this e-mail.

**Subject:** Your Right-to-Know Law Request Has Been Received by DEP  
**From:** ep-dep-rtk@pa.gov  
**Date:** Mon, Feb 01, 2016 10:28 am  
**To:** klsmith@smithbutzlaw.com  
**Attach:** RTKPDF.565.pdf

Thank you for your Right-to-Know Law submission that will be forwarded to the Agency Open Records Officer (AORO) for processing.

If you wish to modify a pending Right-to-Know Law request, do not complete another online form. A second online submittal will not modify your original request. Instead, please send an e-mail to ep-dep-rtk@pa.gov and we will assist you with modifying your original request.

Please note that your request is deemed received on the Department's next business day if:

- Your request was submitted after 4:30 p.m. Monday-Friday,
- Your request was submitted during a weekend,
- Your request was submitted on a holiday observance recognized by the Commonwealth, or
- Your request was submitted any time Executive Offices are closed as a result of weather or any other emergency.

The Department will contact you no later than five business days from the receipt of your request as to its status. If you have any further questions on this process, please visit the Department's webpage at:  
[http://www.portal.state.pa.us/portal/server.pl/community/public\\_records/19207](http://www.portal.state.pa.us/portal/server.pl/community/public_records/19207)

Thank you.

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**POSITION STATEMENT IN SUPPORT OF APPEAL TO DENIAL OF RTKL  
REQUEST 4100-16-071 (CO)**

Kendra L. Smith, Esquire (the "Requester") submits this Position Statement in support of this Appeal of the Department of Environmental Protection's ("Department") March 8, 2016 denial of Right to Know Request 4100-16-071 (CO).

**GENERAL BACKGROUND**

On February 1, 2016, the Requester submitted a Right to Know Request ("Request") to the Department seeking records related to activities of Core Laboratories d/b/a ProTechnics, Division of Core Laboratories at the Yeager Drill site in Amwell Township, Washington County, Pennsylvania where ProTechnics was hired to inject radioactive tracers and to perform radioactive tracing associated with hydraulic fracturing. It appears that the Department transmitted this Request to its regional offices, each of which transmitted a response to the Requester. These responses were substantially the same but, because they were assigned separate Request Numbers by the Department, they will be appealed separately. This appeal relates only to the Department's Central Office response, identified by the Central Office as No. 1400-16-071 (CO).

**DEPARTMENT RESPONSE TO REQUEST**

The Department's Central Office responded to the Request by granting the Request in part and denying the Request in part. The Department identified that it withheld several thousand pages of responsive documents based on wide-ranging and ill-founded exemptions under the Right to Know Law ("RTKL"). The Central Office produced a few dozen pages of heavily redacted records, with the redactions supposedly based upon the RTKL exemptions claimed by the Department. At the conclusion of its Response, the Department identified the Requester's right to file an appeal

with the Office of Open Records and, that in such appeal, the Requester should identify the grounds for appeal.

Given the breadth of the Department's withholding of responsive records and the generality of the asserted exemptions, this Position Statement is intended to highlight the foundational implausibility of the Department's assertion of exemptions to withhold thousands of pages of responsive records. Each of the Department's claimed exemptions will be addressed in order.

### *Regulatory Preemption*

The first basis for exemption of records set forth by the Department is founded upon its contention that it has a "regulatory inability to release inspection reports by the Department's radiation protection program and records for the radioactive materials general license registration", resulting in the Department withholding 791 pages of responsive records. The Department appears to rely on 25 Pa. Code § 215.14(2) which provides:

#### **§ 215.14. Availability of records for public inspection.**

The following Department records are not available for public inspection, unless the Department determines that disclosure is in the public interest and is necessary for the Department to carry out its duties under the act:

- (1) Trade secrets or secret industrial processes customarily held in confidence.
- (2) A report of investigation, not pertaining to safety and health in industrial plants, which would disclose the institution, progress or results of an investigation undertaken by the Department.
- (3) Personnel, medical and similar files, the disclosure of which would operate to the prejudice or impairment of a person's reputation or personal safety.

These claimed bases for withholding records are repeated by the Department elsewhere in its denial of the Request and are addressed more comprehensively in the relevant sections of this Position Statement related to those specific assertion. However, generally, the Department's assertion that, under the law, substantial information is not subject to public disclosure based on these factors misses the mark and is not in-line with the nature and context of the Request.

In no way did the Requester seek for the Department to release information that constitutes a trade secret. In the documents that the Department presented, the name of the ProTechnics product that was used was redacted. The name of the product is the "ZeroWash" tracer, which is a trade name that ProTechnics promotes on its website. It even makes a brief case study of its use available on its own website: <http://www.corelab.com/ProTechnics/case1>. In short, according to ProTechnics' own website, its "ZeroWash" tracer products use radioactive isotopes that are injected with sand proppant into the hydraulic fracturing process of an oil and gas well and then the radioactivity is used to determine how effect the hydraulic fracturing was. <http://www.corelab.com/ProTechnics/abstracts/133059>. The "ZeroWash" products use the radioactive isotopes Scandium, Iridium and Antimony. *Id.* At a January 26, 2016 hearing before the Court of Common Pleas of Washington County regarding a Motion to Compel ProTechnics to produce documents responsive to a subpoena in the matter of *Stacey Haney, et al v. Range Resources-Appalachia, LLC, et al*, the President of ProTechnics testified in open court, on direct examination, regarding the general way that "ZeroWash" radioactive tracer products are utilized, referencing the product by name. *See*, Hearing Transcript at pp. 27-31 attached hereto as **Attachment 1**.

Quite clearly, information regarding ProTechnics and its use of its "ZeroWash" radioactive tracer product in the field of hydraulic fracturing is well within the public domain, is even used as

a marketing tool, and the Department's redaction of documents that identify the trade name of a product finds no support in the Department's generalized "regulatory preclusion" argument under 25 Pa. Code §215.14. The Request was designed to obtain documents about the use of "ZeroWash" tracers at particular job sites, including the Yeager site in Amwell Township, Washington County that is the subject of the afore-referenced *Haney* litigation. The Requester merely sought basic information concerning the use of the radioactive tracers and whether a license existed for their use and/or disposal, which in no way touch upon any matters of the asserted "Regulatory Preemption".

As noted, the Request sought information about the use of "ZeroWash" by ProTechnics at specific sites. While the Department claims that hundreds of pages were withheld upon the basis of regulatory preclusion, related to investigations, the Department did produce documents that demonstrate that there were investigations and enforcement actions taken by the Department. Though heavily redacted, the Department produced Violation notices and a Consent Order and Agreement related to these "ZeroWash" tracers. As a result, it is readily apparent that the Department possesses and produced records related to its investigation of "ZeroWash" tracers. So, it is unclear how the Department, on one hand, will disclose documents to the Requester providing information about investigations and, on the other hand, claim that hundreds of pages of documents are exempt because they would show the progress or results of an investigation. This makes no sense.

#### **Public Safety & Security**

In its Response, the Department identified that 1,544 pages of records responsive to the Request were withheld based on the Department's contention that these records were exempt from disclosure pursuant to Section 708(b)(2) of the RTKL and Section 708(b)(3) of the RTKL, which

the Department categorized under the heading "Public Safety and Security". The Department's claim that these records are exempt from disclosure under these sections of the RTKL and the rationale asserted by the Department in support of this is grossly deficient.

In order for an agency to properly assert an exemption under Section 708(b)(2) of the RTKL, the agency bears the burden to demonstrate that "the disclosure of the records would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity." Carey v. Pennsylvania Department of Corrections, 61 A.3d 367, 374 (Pa. Commw. Ct. 2013). Evaluation of the "reasonably likely" test involves analysis of "the likelihood that disclosure would cause the alleged harm, requiring more than speculation." Id. at 375. The Department's assertion of this exemption under Section 708(b)(2) is mere unfounded speculation, which is made readily apparent by both the content of the Department's Response and the fact that other state and federal government agencies have published the same type of information on their websites that is nearly identical to what was sought in the instant Request and what is presumably being withheld by the Department.

With these "Public Safety and Security" exemptions, the Department engages in baseless fear-mongering to direct attention away from the deficiency of its Response. Amongst the doomsday scenarios presented by the Department in its Response are its contentions that:

- disclosure of licensure information could allow an individual to "utilize the information contained in the license and reports to unlawfully obtain the radioactive materials for illicit purposes thus creating a major security and health breach." [Department Response at p. 4].
- "Disclosing the contents of these records would reveal specific information pertaining to the nature and location of radioactive materials." [Department Response at p. 4].

- “Information contained within these files would give a determined adversary the means to actually do harm to others.” [Department Response at p. 4].

Essentially, the Department would have one believe that if it provided the records in its possession that are responsive to this Request, that cities across the Commonwealth would suddenly become black market weapons bazaars full of unsavory characters purchasing radioactive materials. These “scare tactics” are preposterous and are nothing more than ill-fated attempt to direct attention away from the fact the Department has not and cannot demonstrate, beyond mere conjecture, that it is reasonably likely that the disclosure of these records will jeopardize or threaten public safety, as is required by law. Carey, 61 A.3d at 374, 75. In fact, beyond using “buzzwords”, the Department’s Response does not even rise to mere speculation of potential harm to “Public Safety and Security.” A cursory examination of the Department’s assertion of this exemption, in concert with records that the Department provided *and* general background information, reveals the absurdity of the Department’s position that the “Public Safety and Security” exemption applies.

The most egregious example of the Department’s misuse of the “Public Safety and Security” exemption to withhold responsive records from the Requester is the Department’s decision not to disclose the address of ProTechnics. In its Response, the Department identifies that among the 1,544 pages of withheld records, there is information about “. . . physical addresses.” [Response p. 4]. In the documents that the Department produced, the mailing address of ProTechnics is redacted. From a threshold perspective, it is unclear how the Department could conclude that disclosure of the business address of a company where correspondence is directed would endanger the “Public Safety and Security.” ProTechnics’ office is not a secret military facility where national security could be compromised by disclosure of its mailing address: it is an office building in suburban Houston. A visit to the ProTechnics website includes a page where one

can obtain the address and telephone number for every ProTechnics location: (<http://www.corelab.com/ProTechnics/locations>). A copy of this webpage is attached hereto as **Attachment 2**. In fact, on that website, ProTechnics lists its headquarters address and phone numbers and invites people to make contact with the company:

**Contact ProTechnics**

**Email Us**

**Send us a request**

**Headquarters**

6510 W. Sam Houston Pkwy. N.  
Houston, TX 77041

**Call Us**

USA: 1-713-328-2320

Canada: 1-403-571-1685

International: 1-713-328-2323

Technical: 1-713-328-2340

**Locations**

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*See, Attachment 2.* Presumably, if ProTechnics was concerned about the "Public Safety and Security" ramifications of the disclosure of its address, it would not maintain this information on its own website. Since ProTechnics has disclosed its headquarters address and its other numerous business locations on its own website, the unidentified "determined adversary" that the Department cites in its Response would not have to work too hard to acquire this information. In light of these facts, the Department's redaction of ProTechnics' address and its withholding of documents with ProTechnics' name and address on them is not justified by its asserted "Public Safety and Security" exemption claims.

The Department's refusal to provide records containing ProTechnics' mailing address is but the tip of the iceberg in the Department's puzzling and improper redaction of records and withholding of records based on its "Public Safety and Security" exemption. If one reasonably interprets the Department's Response, one reaches the conclusion that the Department will neither confirm nor deny that ProTechnics has a radioactive materials license in the Commonwealth, as the Department asserts that it withheld records that include "... licensees' names, license numbers. . ." [Response at p. 4]. The records that the Department did produce, however, clearly indicate that ProTechnics had or has a radioactive materials license that the Department was referencing, either by way of a general license, a reciprocal license or a Pennsylvania radioactive materials license. This is exemplified in the June 15, 2010 "Notice of Violation" directed to ProTechnics and regarding "License No. REDACTED".<sup>1</sup> Obviously, ProTechnics had a radioactive materials license number, or there would be nothing to redact in this line. This is confirmed in the Consent Order and Agreement of November 2, 2010 that the Department provided wherein it states, at Item K, that ProTechnics obtained radioactive materials license on February 26, 2010. *See*, November 2, 2010 Consent Order and Agreement attached hereto as **Attachment 3**. Quite clearly, the Department's resistance to any disclosure of information relative to ProTechnics possessing such license is undermined by the records that were produced.

Related to ProTechnics' licensure, among the Department's redactions is ProTechnics' Texas radioactive materials license. Much like the Department's refusal to disclose ProTechnics' business address, the Department's redaction of ProTechnics' Texas radioactive materials license number is without merit or basis under a "Public Safety and Security" exemption. Information

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<sup>1</sup> Examination of this June 15, 2010 Notice of Violation further reveals that the Department has redacted the eFACTS Inspection ID Number and the eFACTS Enforcement ID Number. If this information is found on the Department's online eFACTS system, it is very difficult to accept the Department's assertion that its disclosure in the context of a Right to Know Law request would somehow endanger Public Safety and Security.

regarding the Texas Department of State Health Services' radioactive materials licensure is available online, which sets forth license numbers, license type, license status, license expiry, general details regarding the particular license, specifically what radioactive materials and in what quantity these radioactive materials may be used and for what purpose, as well as the company address and company phone number. An exemplar copy of such information, as well as an incident summary report are collectively appended hereto as **Attachment 4**. Again, the Department's claim that it cannot disclose information because of threats to "Public Safety and Security" is contradicted by the fact that this information is already in the public domain and, in fact, placed on the internet by a sister state from which the Department granted ProTechnics a reciprocity license to use radioactive material in Pennsylvania.

Among the information that the Department has withheld or redacted is information regarding locations where ProTechnics products were used. The Department's claim that disclosure of this information would jeopardize "Public Safety and Security" is wholly undermined by the records that the Department produced. In the records that the Department produced, the Department redacted the well sites where ProTechnics radioactive tracer products were injected into gas wells. However, in a puzzling decision, the Department did not redact the names of landfills where these ProTechnics radioactive tracers that flowed-back from the well were taken for disposal. Reason would dictate that *if* the Department was concerned that its disclosure of locations where ProTechnics products were injected into the ground could "give a determined adversary the means to actually do harm to others", the Department would more vigorously guard the location of the landfill where the recovered radioactive flowback was disposed-of.<sup>2</sup> As

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<sup>2</sup> To this end, it seems implausible for the Department to contend that, with respect to the matters referenced in its Notices of Violation, that disclosure of the locations where Protechnics tracers were used several years ago jeopardizes any public safety.

discussed below, the federal Nuclear Regulatory Commission makes this information available on its own website, further undermining the Department's position. More to this point, it is odd that the Department would redact the names of the companies that hired ProTechnics in the records that the Department produced, while disclosing the names of the names of the companies where these tracers were disposed-of. Even then, the Department's redactions were incomplete, defeating the purpose of the exercise, as, for example, the Southcentral regional office disclosed a Notice of Violation directed to Citrus Energy Corporation. *See*, Notice of Violation directed to Citrus Energy attached hereto as **Attachment 5**.

Along similar lines, the Department's contention that revealing "inspection reports" and "documentation of security controls" would undermine the "Public Safety and Welfare" is frustrated by other information that the Department has provided. For example, the Department's Northwest Regional Office provided the minutes of a June 16, 2010 Program Managers' Conference Call in response to the Request. *See*, June 16, 2010 Program Managers' Conference Call minutes attached hereto as **Attachment 6**. This document identifies that the Rustick Landfill had a radiation alert for Iridium-192, in waste generated from a gas well where ProTechnics utilized Iridium-192 tracer beads. The letter then continues that "ProTechnics is currently the only company utilizing this technology in PA." Quite clearly, information about "security controls" and the results of incidents have been provided by the Department. In light of this, the Department cannot credibly refuse to produce documents responsive to the Request by asserting an exemption that the Department itself has already ignored.

Also unclear is how the Department's redaction of the names of individuals employed by or representing ProTechnics is an appropriate "Public Safety and Security" exemption under the RTKL. For example, in the records that the Department has produced, it has partially redacted the

identity of the employee at ProTechnics that correspondence was directed to and the Department also redacted the names of attorneys for ProTechnics that signed a Consent Assessment of Civil Penalty on behalf of ProTechnics. There is absolutely no reason why the identity of ProTechnics' legal counsel should be redacted from documents. The redaction of such information is also suspect and improper when the Department already provided such information from its other offices.<sup>3</sup> Moreover, the Department's redaction was sloppy, at best, because while the Department redacted the name of the addressee from the address, it did not redact the names of "Mr. Hampton" and "Mr. Flecker" from the salutations. *See*, January 28, 2010 Notice of Violation transmitted to "Mr. Hampton" and December 23, 2013 correspondence to "Mr. Flecker" appended hereto as **Attachment 7**. Additionally, where the Department has redacted the names of individuals at ProTechnics, the Department did not redact the names and addresses of other parties involved in matters subject to the Request, such as the August 3, 2010 Consent Assessment of Civil Penalty involving Elk Waste Services, Inc. of 134 Sara Road, Saint Marys, PA 15857, which was signed by Chester L. Cheatle, the President of Elk Waste Services. *See*, August 3, 2010 Consent Assessment of Civil Penalty attached hereto as **Attachment 8**. The Department even produced a check from Elk Waste Services bearing the company's bank account number. *See*, Attachment 8. There can be no doubt that the Department's selective redaction and non-disclosure of even basic information is arbitrary.

While these examples indicate that specific parts of the Department's withholding of responsive records based on "Public Safety and Security" are nonsensical, a more global view of the Department's "Public Safety and Security" exemption claim reveals that its fundamental

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<sup>3</sup> Moreover, documents available on the Nuclear Regulatory Commission website contain the names of ProTechnics employees. *See*, Attachment 9. If the Nuclear Regulatory Commission does not find it to be contrary to the public safety or, indeed, individuals' personal safety to place this information on its website, the Department cannot credibly assert such exemption.

premise is fatally flawed. At the heart of the Department's "Public Safety and Security" claim is that disclosure of information related to radioactive licenses, complaints and violations would somehow jeopardize the public welfare. This contradicts the practice of the United States Nuclear Regulatory Commission ("NRC"), the federal agency entrusted with nuclear regulation and safety. Whereas information such as radioactivity license numbers, corporate addresses, types of radioactive sources, locations of use, etc. are guarded by the Department for fear of falling into the hands of unidentified miscreants, the NRC makes all of this information available on its website. *See*, Attachment 9. Also puzzling is that the Department's Northwest regional office produced, in response to the Request, an internal e-mail, dated November 16, 2010, wherein Department employees noted concerns of radiation exposure to Department inspectors associated with the use of radioactive tracers. *See*, November 16, 2010 Department e-mail attached hereto as **Attachment 10**.

On the front page of the NRC website, there is a "Search" feature where, if one enters "ProTechnics", five (5) pages of results are populated, with hyperlinks to a variety of documents. Searching through these free, publicly available files on the NRC website reveals a plethora of information about ProTechnics. For example, one entry on the NRC website involved an April 2014 event in Colorado involving ProTechnics:

|  |   |
|--|---|
| Agreement State  | Event Number: 50065   |
| Rep Org: COLORADO DEPT OF HEALTH<br>Licensee: PROTECHNICS<br>Region: 4<br>City: FRUITA State: CO<br>County:<br>License #: CO 545-01<br>Agreement: Y<br>Docket: | Notification Date: 04/28/2014<br>Notification Time: 16:15 [ET]<br>Event Date: 04/04/2014<br>Event Time: 14:30 [MDT]<br>Last Update Date: 04/28/2014 |

|  |  |
|--|--|
| NRC Notified By: JAMES JARVIS<br>HQ OPS Officer: DONALD NORWOOD      |  |
| Emergency Class: NON EMERGENCY<br>10 CFR Section:<br>AGREEMENT STATE | Person (Organization):<br>MARK HAIRE (R4DO)<br>FSME EVENTS RESOURCE (EMAI) |

**Event Text**

**AGREEMENT STATE REPORT - SCRAP FACILITY GATE ALARM**

"On 04/04/14 at approximately 1430 MDT, the Colorado Radiation Program received phone notification of a scrap load that had been rejected at a recycling facility in Englewood, CO due to a gate radiation alarm. Scrap facility personnel performed surveys around the container using hand held survey instruments. Surveys indicated readings up to a maximum of 120 microrem/hour (Ludlum Model 3). Recycling facility staff indicated that the load would not be returned to the shipper until the following week and that the load/roll-off container was segregated onsite. The Colorado Radiation Program issued a DOT special permit and the scrap metal was returned to the originator, Baker-Hughes (Colorado License No. 678-01; 285 County Road 27, Brighton, CO 80603) on or about 04/11/14.

"Preliminary communications with Baker-Hughes personnel indicated that it performed well fracking work in mid-March 2014 and worked with another Colorado licensee - well logging tracer company, ProTechnics (Colorado License No. 545-01; 703 Greenway Drive, Fruita, CO 81521). Baker-Hughes is not authorized for tracer material use. Baker-Hughes requested that ProTechnics perform surveys on the rejected scrap load to determine whether the contamination was naturally occurring radioactive material, or tracer material. ProTechnics performed radiological surveys on or about 04/15/14 at the Baker-Hughes facility and determined that a small amount of tracer material remained in one component (a manifold removed from the pumping truck) of the scrap load. ProTechnics identified the tracer material as Iridium-192. The tracer material combined with approximately 10 lbs. of fracking sand was removed/decontaminated from the scrap component and was packaged by ProTechnics and returned to their facility in Fruita, CO for decay in storage. ProTechnics estimated the activity of Ir-192 tracer material in the component to be approximately 0.015 mCi. After receiving a preliminary written report from ProTechnics on 04/16/14, Colorado Radiation Program staff performed phone interviews of Baker-Hughes personnel and ProTechnics personnel.

"Colorado Radiation Program staff performed on-site verification surveys of the scrap load (post-decontamination) on 04/21/14. Surveys indicated that no radiation levels above instrument background were detected on the remaining decontaminated scrap.

"The Colorado Radiation Program is continuing to investigate the incident to determine further actions."

Readily apparent is the ProTechnics Colorado radioactive materials licensure number, the exact time and date of the incident, the type of incident, and the specific radiation source, an IR-192 tracer as well as the names of individuals reporting the incident. There are many other entries on the NRC website with similar specificity as to the identity of where, what and how specific radioactive tracers were used and mishandled. *See*, Attachment 9.

When one examines the information that the NRC makes available on its own website, it is readily apparent that the scope of the Request is fairly encompassed within these documents. The Department cannot credibly claim that it withholds information for “Public Safety and Security” reasons when its federal counterpart makes this same information available, without even any need for a Freedom of Information Act inquiry. In the Department’s case, it is difficult to imagine what risk to the public wellbeing would arise by the disclosure of information about where decaying radioactive tracers were injected into gas wells a half-decade ago.

Simply put, the Department withheld 1,544 pages of records based on “Public Safety and Security” exemptions and redacted information in other records based on these same exemptions that are inappropriate under the RTKL.

#### **Internal Predecisional Deliberation Exemption**

The Department next asserts that it is withholding approximately 1,500 pages of responsive records based on the “Internal, Predecisional Deliberation Exception” found in Section 708(b)(1)(i)(A) of the RTKL. To satisfy the Predecisional Deliberation exemption, the Department must demonstrate that the withheld records are “(1) internal; (2) prior to agency decision or course of action; and (3) deliberative in character.” Worcester v. Office of Open Records, 129 A.3d 44, 61 (Pa. Commw. Ct. 2016). Factual information is not deliberative in character. Id. Only the information “that constitutes confidential deliberations of law or policymaking, reflecting opinions, recommendations or advice is protected as deliberative.” Pennsylvania Department of Education v. Bagwell, 114 A.3d 1113, 1122-23 (Pa. Commw. Ct. 2015) (internal citations omitted). Further, “each of the three elements must be established by the underlying facts, as the absence of any of the elements precludes protection under the exception.” Id. at 1123.

The sheer volume of records withheld by the Department is astonishing. The Department produced a handful of heavily redacted Notices of Violation and a Consent Assessment of Civil Penalty related to ProTechnics. It defies belief to accept that the Department generated 1,500 pages of records as part of its internal deliberations that resulted in a few dozen pages being released. Interestingly, the Central Office comments that it is withholding information, such as internal Department correspondence and meeting notes under this exemption, when the Department's Northwest region produced a November 16, 2010 internal e-mail communication among Department employees *and* the meeting minutes of a June 16, 2010 Department meeting as well as the internal e-mail of the Department's Northwest regional office expressing concern over oil and gas inspectors' radiation exposure at these well sites. *See*, Attachments 6 & 10. The Department has withheld the same type of documents produced by the Northwest regional office without substantiating this exemption with respect to each of the 1,500 pages of records that it has withheld under this exemption. As a result, the Department has not met the threshold required to withhold such documents pursuant to this exemption and thus must be compelled to produce all 1,500 pages that have been withheld.

#### **Confidential Proprietary Information**

The Department next contends that it is withholding 128 pages of responsive records that, if disclosed "would undermine ProTechnics' competitive position in the marketplace and would reveal a specialized framework that ProTechnics expended substantial time and money to develop." The Department also asserts that, among the withheld records are "patent information and well tracer presentation information." The initial explanation provided by the Department in its denial of the Request fails to demonstrate that the Department is appropriately asserting this exemption

The RTKL defines "Confidential or proprietary information" as:

Commercial or financial information received by an agency: (1) which is privileged or confidential; and (2) the disclosure of which would cause substantial harm to the competitive position of the entity that submitted the information."

65. P.S. § 67.102. The Department's contention, that 128 pages of information are being withheld under this exemption, is overly broad, as the Department generally claims that the withheld records "include patent information and well tracer presentation information." This superficial explanation does not and cannot support the Department's exemption. For example, substantial information regarding patents held by ProTechnics is available on the United States Patent and Trademark Office Website. A search for Patent Number 5,182,051 reveals a patent for "Radioactive tracing with particles" that is held by ProTechnics. A copy of this patent document is attached hereto as **Appendix 11**. This patent reveals substantial information regarding the development, use and purpose of this technology. Again, as referenced above, the President of ProTechnics testified in open court, on direct examination, in great detail regarding how the "ZeroWash" radioactive tracer works. *See*, Attachment 1.

Along similar lines, ProTechnics' ZeroWash Tracer, which was used at the Yeager drill site in Amwell Township<sup>4</sup>, which is the focus of this Request, was the subject of a 2013 article in the Journal of Chemical and Pharmaceutical Research, entitled "Study and application of ZeroWash tracer fracture monitoring." A copy of this article is attached as **Attachment 12**. In this article, the authors discuss the ZeroWash tracer and how it is used in the hydraulic fracturing process. Similar to information contained in patent documents, the Department cannot demonstrate

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<sup>4</sup> Attached hereto is a copy of a nonprivileged document produced in related litigation demonstrating Protechnics' use of ZeroWash tracers at the Yeager well site and the quantities in which they were utilized.

that the disclosure of the withheld records would actual cause substantial harm to ProTechnics' competitive position that takes into account information already in the public realm.

### **Noncriminal Investigation**

The Department next contends that twenty (20) pages of responsive records have been withheld as a result of a noncriminal investigation. Hallmarks of a noncriminal investigation involve a "systematic or searching inquiry" and a "detailed examination." Department of Environmental Protection v. Delaware Riverkeeper Network, 113 A.3d 869, 875 (Pa. Commw. Ct. 2015). While the Department recites provisions of the Radiation Protection Act at-length in its Response to the Request, the Department does not and cannot demonstrate how the requested records constitute a "systematic or searching inquiry." Instead of a systematic and detailed examination, it appears that, from the Department's description, the its interaction with ProTechnics with regard to this matter involved mere issuance of violations for actions contrary to Pennsylvania law. To accept this explanation would serve to cause an incredible percentage of records maintained by the Department to be shielded from public view. Moreover, while the Department contends that "these records prompted the [Central Office] to conduct an official probe at the facility . . ." the Department does not identify what this "facility" is.

### **Attorney-Client Privilege/Attorney Work Product**

The Department has asserted that eighty-two (82) pages of responsive records were withheld as a result of application of the attorney-client privilege. The Department's Response does not provide any particularized information to demonstrate that this privilege is being asserted appropriately and the Department must be made to substantiate this claim of privilege. Further complicating this situation, and which must be explained by the Department, is the Department's

practice of identifying private industry as a "client". Obviously, the Department's counsel cannot claim the companies that are regulated by the Department as a "client" and thus assert attorney client privilege to justify the withholding of documents when the Department's "clients" are the environment and the health and safety of the people of the Commonwealth.

### **Personal Identification Information**

The Department claims an exemption pursuant to the "Personal Identification Information" exception in Section 708(b)(6) of the RTKL. Presumably, since the Department did not mention that any records were withheld explicitly as a result of this exemption, it can be understood that the Department is asserting this exemption with respect to the scant records that were provided and in records that were withheld. In either case, the Department's utilization of this exemption is far too broad and improper.

An examination of the redactions in the records that the Department provided reveals that its concept of "Personal Identification Information" apparently is all-encompassing, ranging from Priority Mail Delivery Confirmation Numbers, to addresses of public companies, to names of attorneys representing companies. Presumably, the Department redacted the Delivery Confirmation Numbers so that the Requester could not insert these tracking numbers into the U.S. Postal Service website to obtain the ProTechnics delivery address. Given that ProTechnics posts the addresses of all of its locations on its own website already, this is not necessary. The Department clearly takes a very expansive view of what should be redacted that is not justified under the RTKL.

In addition to this, the Department's claim for the need to redact its employees' email addresses and telephone numbers is absurd. Protection of employees' internal telephone numbers

makes little sense, as Department directories are available on the internet and reaching representatives by phone is as easy as calling the Department's switchboard and asking for a particular representative. The Northwest regional office did not redact the telephone number of John R. Crow, its Solid Waste Supervisor in a letter to Mr. Chester Cheatle of Elk Waste Services, Inc. enclosing a Consent Assessment of Civil Penalty, in the records it produced in response to the Request. Other regional offices have provided e-mails with Department representatives e-mail addresses on them. *See*, Attachment 10. Moreover, the Department's assertion that "[t]he same analysis applies to government issued personal e-mails" is confusing. The Request did not seek personal e-mails among Department staff. The Request sought a very focused set of records and, if personal e-mails were used by personnel for this purpose, the mere fact that they are personal e-mails does not render them beyond the scope of the Right to Know Law. Moreover, the selective redaction of certain information pertaining only to ProTechnics and inconsistency among Department offices regarding what was disclosed indicates that the assertion of this exemption is *ad hoc* and inappropriate.



1 A. Everything we had on this job, we produced.

2 Q. Okay. And what about with respect to  
3 correspondence with Range?

4 A. Yeah.

5 Q. Did you look for correspondence with Range?

6 A. We looked and provided the correspondence  
7 associated with this well.

8 Q. Okay. You talked about the chemical tracers.  
9 I want to focus now on the proppant tracer. And can  
10 you explain what the product description was that was  
11 produced, and why, you know, it had this data about  
12 half-life, that kind of thing?

13 A. Yeah. Basically, those are the isotopes that  
14 were pumped on this job. I think our report that was  
15 provided shows how much on each stage and what type was  
16 pumped. That is a brief description that we hand out  
17 sometimes to provide people with an understanding of  
18 what it is that we're pumping.

19 In this case, we had -- I mean, it kind of  
20 describes in detail how we manufacture the bead. Where  
21 it's a ceramic bead that looks like a sand grain. It's  
22 like the proppant.

23 Typically, it's higher strength than sand, so  
24 when the formation closes down, it can't get crushed.  
25 It's -- even with sand that's propping it open is

1 weaker than the ceramic bead that we're using. So it's  
2 a high strength ceramic bead that's typically used for  
3 propping formations.

4 But what we've done with the patent several  
5 years ago is we introduced small amounts of scandium  
6 metal and iridium metal and antimony metal. And those  
7 unique three metals, then, are taken to, let's say,  
8 Texas A&M. Their reactor put downhole. They are  
9 irradiated, and then they have a short half-life.  
10 Sixty- to ninety-day half-life.

11 And we then inject that at very small  
12 concentrations into the stream of proppant. Typically,  
13 about 10 ccs per 50,000 pounds. So that's -- if you  
14 look at a dual-axle dump truck, those hold  
15 25,000 pounds of sand. So two dual-axle dump trucks.

16 And we'll have a little vial, about this  
17 size, of these beads that we mix in fluid, and we pump  
18 it in like an IV. We're just dripping it into the  
19 stream. Marking all that 50,000 pounds of proppant  
20 with a small amount.

21 We then -- and that's basically what that is.  
22 That ceramic bead, because it's contained in the metals  
23 inside of the ceramic matrix, the crystalline  
24 structure, we labeled it, marketing-wise, as Zero Wash.  
25 Because you can wash it with temperature, with acid.

1 The isotope stays internal to the ceramic bead. Stays  
2 in place. So that as you produce the well, it's still  
3 there. We can run an imaging log and identify where  
4 the frac went.

5 So it's significant in that it's -- it goes  
6 with the proppant, stays with the proppant, doesn't  
7 move with production, and allows us to image where  
8 things went.

9 Q. That being --

10 A. Kind of like a medical diagnostic.

11 Q. Translation, if the proppant, that ceramic  
12 bead that's irradiated, if that is in the frac, the --  
13 let's say, the crack under the ground --

14 A. In the proppant -- or in the fracture. In  
15 the fracture.

16 Q. It's staying in the fracture; right?

17 A. Correct.

18 Q. Okay. And on the jobsite survey, were the  
19 various isotopes actually listed on the jobsite survey  
20 that was produced?

21 A. Yeah. The isotope and the amount.

22 Q. And that's like, for example, Ir-192?

23 A. Iridium-192.

24 Q. Yeah. And was there a radiation survey done  
25 before and after to know --

1 A. Correct.

2 Q. -- whether or not there were increased  
3 radiation levels?

4 A. Correct. We measure the natural radiation  
5 background for the area that we're in. It would vary  
6 whether you're in the mountains or at the beach or  
7 whatever.

8 So we first get a baseline of what that  
9 natural background radiation is. And then before we  
10 leave, we go back and survey everything and verify that  
11 we're at natural background. That's just part of our  
12 licensed procedures.

13 Q. Okay. Going back to that master service  
14 agreement, do you remember that there was a request  
15 from Plaintiffs where they were asking about whether we  
16 had any work orders?

17 A. Correct.

18 Q. Do you remember that?

19 A. Yes.

20 Q. Did you ask your guys whether or not there  
21 were any work orders?

22 A. I asked the two individuals that would be  
23 closest to it. The contact with the client salesman  
24 and operations. Both of them together, at the same  
25 time, and they both looked at me like, what are you

1 talking about?

2           So my thought is work orders are not  
3 something that we do. Our work order for ourselves,  
4 probably, would be -- and because our client doesn't  
5 design the job and say, here's what I want you to do.  
6 Our client gives us data. Our engineers design the  
7 job. We put a proposal out that says, this is what we  
8 should do. Provide them with that. And then the  
9 engineer would say, yeah, that sounds good.

10           And then, at that point, our normal mode is,  
11 we get a call to our district. Because we'll provide  
12 them with the information about how to contact us, or  
13 they already know. They call our operations group to  
14 go out and do the job.

15           So it's kind of verbal, I guess, is the way  
16 we --

17           Q. Verbal.

18           MR. ARNOLD: Your Honor, I have no further  
19 questions at this time for Mr. Flecker.

20           THE COURT: Okay. Thank you.

21           Mr. Smith? Ms. Smith?

22           MS. SMITH: Thank you, Your Honor.  
23  
24  
25



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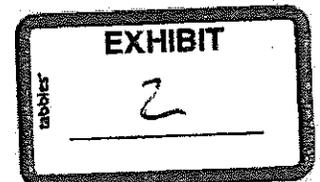
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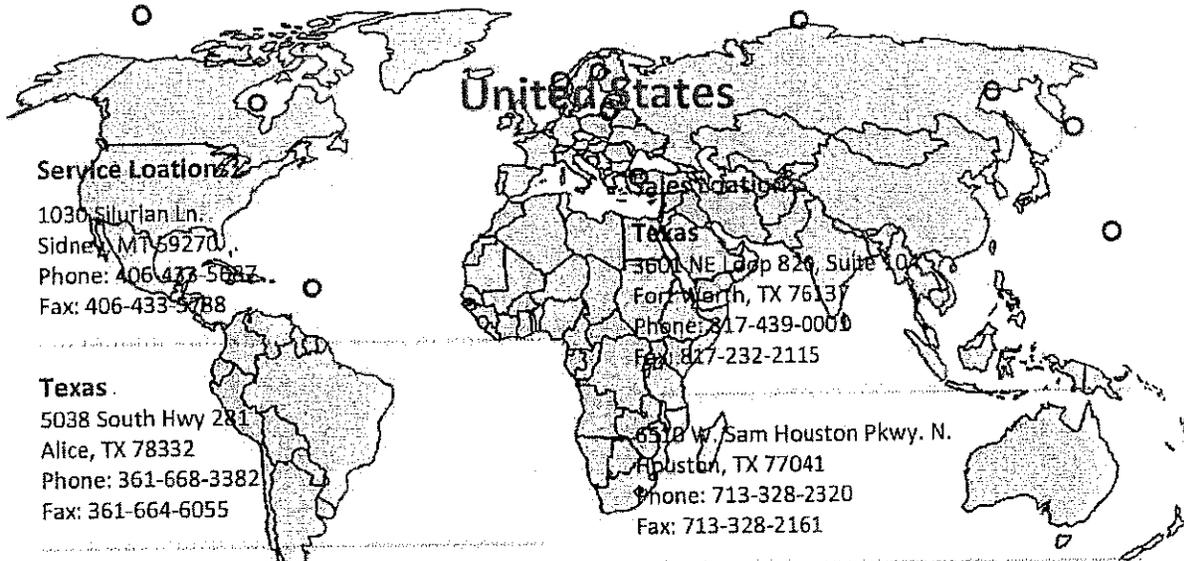
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### Locations

## Locations

Click on a region for location information.





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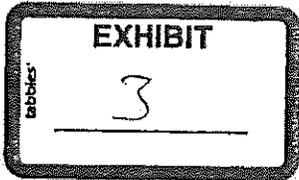
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ProTechnics' global reach spans over more than 21 countries and we are growing every day. ProTechnics not only has the global reach, but the technology and expertise to provide exceptional service to engineers in virtually every major producing basin of the world.



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of:

ProTechnics Division of Core Laboratories L.P. : Violations of the Radiation Protection Act of  
[REDACTED] : July 10, 1984, P.L. 688, No. 147, 35 P.S. §  
[REDACTED] : 7110.101 *et seq.* and 25 Pa. Code § 217 *et seq.*  
[REDACTED] : License No. [REDACTED]

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement (COA) is entered into this 2<sup>nd</sup> day of November, 2010, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (the "Department"), and ProTechnics Division of Core Laboratories LP ("ProTechnics"), aka ProTechnics, a Core Laboratories Company ("ProTechnics").

Findings

The Department has found and determined the following findings which ProTechnics agrees are true and correct.

- A. The Department is the agency with the duty and authority to administer and enforce the Radiation Protection Act, Act of July 10, 1984, P.L. 688, No. 147, 35 P.S. § 7110.101 *et seq.* ("The Act") and Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, as amended, 71 P.S. § 510-17 ("Administrative Code"); and the rules and regulations promulgated thereunder.
- B. ProTechnics conducts business at [REDACTED] is the [REDACTED] of ProTechnics.
- C. ProTechnics is contracted by well owners and/or well operators ("Well Owner/Operator") to inject radioactive material into gas wells, which are intended to extract natural gas from the Marcellus Shale Formation. The injection is necessary to determine the effectiveness of hydraulic fracturing.
- D. On April 1, 2008, the Department granted the Reciprocity General License [REDACTED] to ProTechnics. License [REDACTED] authorized ProTechnics to conduct radioactive tracer studies within Pennsylvania in accordance with Texas Radioactive Material License Number [REDACTED] expired on April 1, 2009.

- E. On April 20, 2009, the Department granted the renewal of Reciprocity General License [REDACTED]. The license remained in effect until April 30, 2010.
- F. On December 10, 2009, ProTechnics injected [REDACTED] containing [REDACTED] at the [REDACTED] well site in [REDACTED]. Following ProTechnics' departure from the [REDACTED] a flow back incident occurred, which produced radioactive residual waste. The radioactive residual waste was transported from the site and directed for disposal by a third party.
- G. On December 22, 2009, Modern Landfill notified the Department that a load of waste had alarmed their radiation monitors. The source was identified as [REDACTED] in residual waste from [REDACTED].
- H. On December 30, 2009, ProTechnics attended a meeting with Department representatives and agreed to apply for a Pennsylvania Radioactive Materials License.
- I. On January 26, 2010, ProTechnics submitted an incident report and affirmed their commitment to obtain a Pennsylvania Radioactive Materials License.
- J. On January 28, 2010, the Department issued a Notice of Violation ("NOV") to ProTechnics for failing to adhere to the terms of Texas Radioactive Material License Number [REDACTED] and reciprocity general license [REDACTED].
- K. Pennsylvania Radioactive Materials License [REDACTED] was issued on February 26, 2010 and remains in full effect through February 26, 2020.
- L. [REDACTED] ("Well Owner/Operator") contracted ProTechnics to inject radioactive tracer into a series of wells located along the [REDACTED] in [REDACTED]. The injections occurred between April 17, 2010 and April 23, 2010.
- M. On April 17, 2010, representatives from the Well Owner/Operator and ProTechnics signed a well tracer agreement for [REDACTED]. The agreement described the necessary actions to be taken in the event of a well flow back/ well reversal and authorized the placing of well returns (containing radioactive tracer material) for decay *In Situ* on Site.
- N. ProTechnics conducted a Site survey on April 23, 2010 prior to their departure.
- O. Between the dates of April 23, 2010 and April 27, 2010, licensed radioactive material returned to the surface or flowed back at [REDACTED] ("flow back incident"). Well returns, containing approximately 0.078% of the injected quantity of [REDACTED], were collected onto a tarped area around the well and allowed to evaporate. The tarp was out into pieces and directed for disposal by a third party.

- P. On May 21, 2010, Rustick, LLC McKean County Landfill ("McKean County Landfill") notified the Department that a load of waste had alarmed their radiation monitors. The source was identified as [REDACTED] in residual waste, including, but not limited to the tarp from the Site.
- Q. On May 24, 2010, the Well Owner/Operator contacted ProTechnics and advised them of the flow back incident at [REDACTED] and subsequent radiation alarm at McKean County Landfill.
- R. On June 1, 2010, the radioactive residual waste was returned to the Site for decay *In Situ*. ProTechnics posted a sign and placed a fence around the area containing the radioactive residual waste.
- S. ProTechnics violated the regulatory requirements under the Act as follows:
1. ProTechnics failed to transfer radioactive material to an authorized entity that was licensed to handle radioactive material, in violation of 25 Pa. Code § 217.1(a).
  2. ProTechnics failed to only use or store licensed material at temporary job sites in Pennsylvania, as required by [REDACTED] and 25 Pa. Code § 217.1(a).
  3. ProTechnics failed to adhere to the Emergency and Operating Procedures included in License [REDACTED] in violation of License [REDACTED] Condition [REDACTED] and 25 Pa. Code § 217.1(a).
  4. ProTechnics failed to submit a report and a signed agreement from the property owner authorizing storage for Decay *In Situ* within 30-days of an uncontrolled well reversal, in violation of License [REDACTED] Condition [REDACTED] and 25 Pa. Code § 217.1(a).
- T. On June 15, 2010, the Department issued an NOV to ProTechnics, for the violations listed in Paragraph S, above.
- U. On July 12, 2010, an administrative enforcement conference was held between ProTechnics and representatives of the Department. ProTechnics provided the [REDACTED] Site Agreement dated April 17, 2010; a draft of proposed changes to the well site agreement; as well as copies of job site survey forms.
- V. On July 13, 2010, ProTechnics submitted a report to the Department, as well as a description of proposed corrective actions.
- W. On July 23, 2010, the Department sent a deficiency letter requesting a 30-day report, which included all items listed in License [REDACTED] Condition [REDACTED]
- X. On July 28, 2010, ProTechnics provided a response letter; a copy of the April 17, 2010 [REDACTED] site agreement and a copy of ProTechnics' guidelines for radioactive tracers during well stimulations.

Y. The violations described in Paragraph S, above constitute unlawful conduct under Section 307 of the Radiation Protection Act, 35 P.S. § 7110.307, a public nuisance under Section 309(a) of the Radiation Protection Act, 35 P.S. § 7110.309(a), and subjects ProTechnics to civil penalty liability under Section 308(e) of the Radiation Protection Act, 35 P.S. § 7110.308(e).

ORDER

After full and complete negotiation of all matters set forth in this COA and upon mutual exchange of the covenants herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ORDERED by the Department and AGREED to by ProTechnics as follows:

1. Authority. This COA is an Order of the Department authorized and issued pursuant to Section 308(e) of the Radiation Protection Act, 35 P.S. § 7110.308(e) and Section 1917-A of the Administrative Code, *supra*. The failure of ProTechnics to comply with any term or condition of this Consent Order and Agreement shall subject ProTechnics to penalties and remedies provided by those statutes for failing to comply with an order of the Department.

2. Findings.

- a. ProTechnics agrees that the findings in paragraphs A through Y are true and correct and in any matter or proceeding involving ProTechnics and the Department, ProTechnics shall not challenge the accuracy or validity of these findings.
- b. The parties do not authorize any other persons to use the findings in the COA in any matter or proceeding.

3. Corrective Actions.

- a. ProTechnics shall provide a copy of the Radioactive Tracer Well Site Agreement in Attachment A to each Well Owner/Operator who contracts ProTechnics to conduct a radioactive tracer study within Pennsylvania.
- b. ProTechnics and the Well Owner/Operator shall sign and complete a Radioactive Tracer Well Site Agreement for each well that is traced in Pennsylvania. Within five business days of completing the form, ProTechnics shall submit a copy to the Department.
- c. Prior to tracing each well, ProTechnics shall provide an instructional session to the Well Owner/Operator which includes, but is not limited to general radiation safety principles, as well as procedures for handling flow back incidents and acceptable methods of disposal. ProTechnics shall document that training was provided and provide copies to the Department upon request.

- d. Within 14 days of the execution of this COA, ProTechnics shall submit a license amendment request to the Department to amend License [REDACTED] as follows:
1. ProTechnics shall request that License [REDACTED], Condition [REDACTED] be amended to exclude the term "Property Owner."
  2. ProTechnics shall request that License [REDACTED] be amended to include the submission of the completed Radioactive Tracer Well Site Agreement within five business days of signature and completion.
  3. ProTechnics shall request that License [REDACTED] be amended to include that ProTechnics make arrangements with the Well Owner/Operator to ensure the stabilization of each earthen barrier containing radioactive residual waste for *In Situ* decay within Pennsylvania. ProTechnics shall conduct a minimum of one inspection per year which shall include, but not be limited to an assessment of the integrity of the area, markings, and fencing; the adequacy of stabilization, an indication of any maintenance that may be required; and documentation that the inspection was completed.
  4. ProTechnics shall request that License [REDACTED] Condition [REDACTED] be amended to include that ProTechnics will provide notification to the Department in accordance with Paragraph 10 of this COA.
  5. ProTechnics shall request that License [REDACTED] be amended to include that ProTechnics will immediately notify the Department upon confirmation that licensed radioactive material is contained within flow back/ well returns.
- e. In the event of a flow back incident, ProTechnics shall contain the well reversals containing licensed radioactive material to the on site earthen barrier, in accordance with Section 7 of the Emergency and Operating Procedures included in License [REDACTED] Condition [REDACTED]
- f. Upon confirmation that licensed material has returned to the surface, ProTechnics shall immediately notify the Department in accordance with Paragraph 10 of this COA. This shall apply to all well returns / flow back containing licensed radioactive material regardless if it is controlled or uncontrolled and regardless of the quantity of licensed material that reaches the surface.
- g. ProTechnics shall conduct and document a complete survey and sketch of the area surrounding the well returns / flow back containing licensed material in accordance with Section 7.1.4 of the Emergency and Operating Procedures included in License [REDACTED] Condition [REDACTED] ProTechnics shall provide copies of the completed survey form to the Department upon request.

h. ProTechnics shall submit a report, which summarizes the events that caused licensed radioactive material to flow back and all actions taken following the incident. The report shall be in accordance with the terms of License [REDACTED], Condition [REDACTED] and shall be submitted within 30 days of the flow back of licensed material.

4. **Civil Penalty Settlement.** Upon signing this COA, ProTechnics shall pay the civil penalty of TWENTY NINE THOUSAND DOLLARS (\$29,000.00). Subject to Paragraph 5, below, this payment is in settlement of the Department's claim for civil penalties for the violations set forth in Paragraph 5, herein. The payment shall be by corporate check or the like, made payable in the following manner and to the referenced parties: (a). Payment in the amount of TWENTY NINE THOUSAND DOLLARS (\$29,000.00), to the "Commonwealth of Pennsylvania, Radiation Protection Fund," and sent c/o Ms. Lisa A. Fomey, Compliance Specialist, DEP Southcentral Region, Radiation Protection Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.

5. **Stipulated Civil Penalties.**

a. In the event that ProTechnics fails to comply in a timely manner with the provisions of this COA, ProTechnics shall be in violation of this COA and, in addition to other applicable remedies, shall pay a civil penalty in the amount determined under the following schedule:

1. For any documented violation of Paragraph 3, ProTechnics shall pay of civil penalty of FIVE HUNDRED DOLLARS (\$500.00) per day for each violation.

b. Stipulated civil penalty payments shall be payable monthly on or before the fifteenth day of each succeeding month, and shall be forwarded as described in Paragraph 4, above.

c. Any payment under this paragraph shall neither waive the duty of ProTechnics to meet their obligations under this COA, nor preclude the Department from commencing an action to compel ProTechnics with the terms and conditions of this COA. The payment resolves the liability of ProTechnics only for civil penalties arising from the violation of this COA, for which the payment is made.

d. Stipulated civil penalties shall be due automatically and without notice.

6. **Additional Remedies.**

a. In the event that ProTechnics fails to comply with any provision of this COA, the Department may, in addition to the remedies prescribed herein, pursue any remedy available for a violation of an order of the Department, including any action to enforce this COA.

- b. The remedies provided by this paragraph and paragraph 5 are cumulative and the exercise of one does not preclude the exercise of any other. The failure of the Department to pursue any remedy shall not be deemed to be a waiver of that remedy. The payment of a stipulated penalty, however, shall preclude any further assessment of civil penalties for the violation for which the civil penalty is paid.
7. **Reservation of Rights.** The Department reserves the right to require additional measures to achieve compliance with the applicable law. ProTechnics reserves the right to challenge any action which the Department may take to require those measures.
8. **Liability of Operator.** ProTechnics shall be liable for any violations of the COA, including those caused by, contributed to, or allowed by its officers, agents, employees or contractors. ProTechnics also shall be liable for any violation of this COA caused by, contributed to, or allowed by its successors and assigns.
9. **Transfer of Site.** The duties and obligations under this COA shall not be modified, diminished, terminated, or otherwise altered by the transfer of any legal or equitable interest in any Pennsylvania Site, where ProTechnics is contracted to conduct radioactive tracer studies or any part thereof.
10. **Correspondence with the Department.** All correspondence with the Department concerning this COA shall be addressed to:

Ms. Lisa A. Fomey, Compliance Specialist  
DEP, Southcentral Regional Office  
909 Elmerton Avenue  
Harrisburg, PA 17110-8200  
717-705-4898.  
[lfomey@state.pa.us](mailto:lfomey@state.pa.us)

And

Mr. John Chippo, Radiation Protection Program Supervisor  
PA DEP Rachel Carson State Office Building  
400 Market Street  
Harrisburg, PA 17105  
717-787-2208  
[jchippo@state.pa.us](mailto:jchippo@state.pa.us)

11. **Correspondence with ProTechnics.** All correspondence with ProTechnics shall be addressed to:

  
ProTechnics, a Division of Core Laboratories, L.P.  


And

General Counsel  


ProTechnics shall notify the Department whenever there is a change in its contact person's name, title or address. Service of any notice or any legal process for any purpose under this COA, including its enforcement, may be made by mailing a copy by first class mail to the above address.

12. Severability. The paragraphs of this COA shall be severable and should any part hereof be declared invalid and unenforceable, the remainder shall continue in full force and effect between parties.
13. Entire Agreement. This COA shall constitute the entire integrated agreement of the parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for purposes of determining the meaning or extent of any provisions herein in any litigation or any other proceeding.
14. Attorney Fees. The parties shall bear their representative attorney fees, expenses and other costs in the prosecution or defense of this matter or any related matters, arising prior to the execution of this COA.
15. Modifications. No changes, additions, modification or amendments of this COA shall be effective unless they are set out in writing and signed by the parties hereto.
16. Decisions Under Consent Order. Any decision which the Department makes under the provisions of this COA shall not be deemed to be a final action of the Department, and shall not be appealable to the Environmental Hearing Board or to any court. Any objection which ProTechnics may have to the decision will be preserved until the Department enforces this COA. At no time, however, may ProTechnics challenge the content or validity of this COA, or challenge the Findings agreed to in this COA.
17. Titles. A title used at the beginning of any paragraph of this COA is provided solely for the purposes of identification and shall not be used to interpret that paragraph.
18. Termination. The obligations of Paragraphs 1-18 shall terminate when the Department deems that ProTechnics has completed the actions required in Paragraph 3, paid the civil penalty assessed in Paragraph 4, and paid any stipulated penalties due under Paragraph 5, above. Upon the Department's determination that the obligations of Paragraphs 1-19 have been satisfactorily met, the Department shall provide a written statement to conclude this COA.

IN WITNESS WHEREOF, the parties have caused the COA to be executed by their duly authorized representatives. The undersigned representatives of ProTechnics certify, under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this COA on behalf of ProTechnics, that ProTechnics consents to the entry of this COA as an ORDER of the Department, that ProTechnics hereby knowingly waives any right to a hearing under the statutes referenced in this COA, and that ProTechnics knowingly waives their right to appeal this COA and the foregoing Findings, which rights may be available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 1039a) and Chapters 5A and 7A, or any other provision of law.

FOR PROTECHNICS DIVISION  
OF CORE LABORATORIES LP:

FOR THE COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION:

[Redacted signature area]

11/1/10  
Date

*John F. Krueger*  
John F. Krueger  
Radiation Protection Program

11/2/10  
Date

[Redacted signature area]  
Attorney for ProTechnics

11/1/2010  
Date

*Martin R. Siegel*  
Martin R. Siegel  
Assistant Counsel

11/1/10  
Date

## Attachment A

## RADIOACTIVE TRACER WELL SITE AGREEMENT

By signature below, the parties hereby agree to the requirements set out below for handling well reversal, well returns, or flowback ("Well Returns") containing radioactive tracer material. The Pennsylvania Department of Environmental Protection, Bureau of Radiation Protection ("PA DEP") has approved the placing of Well Returns containing radioactive tracer material in an on-site earthen barrier for decay *in situ* for three years from the date of radioactive tracer material injection. The following steps must be taken when handling Well Returns containing radioactive tracer material.

1. The Well Owner/Operator shall notify ProTechnics [REDACTED] within 24 hours of Well Returns containing any solid materials. ProTechnics shall survey such returns for the presence of radioactive tracer material within 2 business days after notification from the Well Owner/Operator.
2. All Well Returns containing radioactive tracer material shall be diverted to the on-site earthen barrier. If the Well Returns are first diverted to on-site tanks, the tanks must be surveyed prior to removal from the well site. ProTechnics shall survey all equipment, location ground site cover tarps, holding tanks, or anything else that may have come into contact with the Well Returns within 2 days after notification from the Well Owner/Operator and prior to removal from the well site. The Well Owner/Operator shall notify ProTechnics within 24 hours of any such contamination.
3. The earthen barrier will be covered with two feet of stabilized clean soil and stabilized in accordance with 25 Pa. Code § 102.1 *et seq.*, the Site's approved Erosion and Sediment Control Plan, 25 Pa. Code § 78.1 *et seq.*, and the respective Oil and Gas Permit (Oil and Gas Well Permit No. \_\_\_\_\_).
4. Upon establishment, the earthen barrier shall be identified by GPS coordinates. Access to this area will be restricted by a durable fence.
5. The earthen barrier will be posted with signage: Caution - Radioactive Material - Keep Out - Do Not dig in this area before (Date: \_\_\_\_\_) - notify ProTechnics [REDACTED] for additional information.
6. This signed agreement between the Well Owner/Operator and ProTechnics for radioactive material decay *in situ* in the earthen barrier will be kept on file by ProTechnics and a copy sent to PA DEP to become incorporated into the ProTechnics' Radioactive Material License for the well location listed below.
7. Both the access control fence and the earthen barrier integrity must be maintained by the Well Owner/Operator for 3 years from the date of tracer material injection or approximately (Date: \_\_\_\_\_). All associated signage and fences shall be removed within 30 days of the above date.
8. Any failure by the Well Owner / Operator to promptly report solid material Well Returns which contain radioactive materials or to control such radioactive materials onsite may subject both ProTechnics and the Well Owner/Operator to regulatory enforcement by PA DEP.

ProTechnics reserves the right to supervise any necessary decontamination activities should any actions occur that result in the loss of integrity of the earthen barrier.

This agreement will be attached and incorporated into ProTechnics' Radioactive Materials License Number: [REDACTED] which is administered by PA DEP, until the date specified in Item #7.

RADIOACTIVE TRACER WELL SITE AGREEMENT (Continued)

\_\_\_\_\_  
Printed Name  
Radiation Safety Officer  
ProTechnics, Division of Core Laboratories LP

\_\_\_\_\_  
Signature  
Radiation Safety Officer  
ProTechnics  
Division of Core Laboratories LP

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Printed Name  
Well Owner/ Operator  
Representative

\_\_\_\_\_  
Signature  
Well Owner/ Operator  
Representative

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Company Name  
Well Owner/Operator

\_\_\_\_\_  
Well Name:  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

\_\_\_\_\_  
Earthen Barrier / Storage Pit Location  
(Approximate GPS Coordinates - Please  
Indicate If Not Applicable)

\_\_\_\_\_  
Company Mailing Address  
Well Owner/Operator

## Attachment B



ProTechnics  
A Div. of Core Laboratories LP  
[Redacted]  
www.protechnics.com

### TRACER WELL SITE AGREEMENT

By signature below, the parties hereby agree to the requirements set out below for handling well returns containing tracer material. The State of Pennsylvania has approved the placing of well returns containing tracer material in an on site earthen barrier for decay in situ. The following steps must be taken when handling well returns containing tracer material.

1. All well returns containing gamma emitting tracer material shall be diverted to the on site earthen barrier.
2. The earthen barrier will be covered with two feet of clean soil.
3. The earthen barrier shall be identified by GPS coordinates. This area will be restricted by the use of a durable barrier.
4. The earthen barrier will posted with signage (Caution - Radioactive Material - Keep Out - Do not dig in this area - notify ProTechnics [Redacted] for additional information.
5. This signed agreement between the Company below and ProTechnics for decay in situ will be kept on file by ProTechnics.
6. Access control of the earthen barrier must be maintained by the well owner/operator until 3 Years. The signs can be removed at this time.

ProTechnics reserves the right to supervise any necessary decontamination activities should any actions occur that result in the loss of integrity of the earthen barrier.

Dated and signed April 17<sup>th</sup>, 2010

[Redacted Signature]

ProTechnics Division of Core Laboratories LP

[Redacted Signature]

Representative

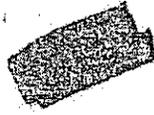
4/17/10  
Date Signed

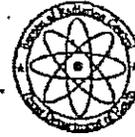
[Redacted Signature]

Well Owner/Operator

[Redacted Signature]

Well Name:





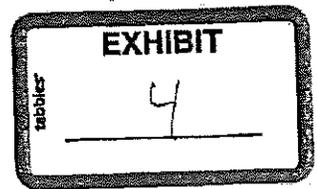
## RADIOACTIVE MATERIAL LICENSE

Pursuant to the Texas Radiation Control Act and Texas Health Department regulations on radiation, and in reliance on statements and representations heretofore made by the licensee, a license is hereby issued authorizing the licensee to receive, acquire, possess and transfer radioactive material listed below; and to use such radioactive material for the purpose(s) and at the place(s) designated below. This license is subject to all applicable rules, regulations and orders of the Texas Department of Health (Agency) now or hereafter in effect and to any conditions specified below.

|  |   |                   |                  |               |           |
|--|---|-------------------|------------------|---------------|-----------|
| <p style="text-align: center;"><b>LICENSEE</b></p> <p>1. Name      <b>PROTECHNICS DIVISION OF<br/>CORE LABORATORIES INC<br/>ATTN WILL C WILLIAMS</b></p> <p>2. Address    <b>1160 DAIRY ASHFORD SUITE 444<br/>HOUSTON TX 77079</b></p> | <p>This license is issued in response to a letter</p> <p>Dated:    <b>March 3, 2000</b></p> <p>Signed by: <b>Larry J. Stephenson</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">3. License Number</td> <td style="width: 50%;">Amendment Number</td> </tr> <tr> <td style="text-align: center;"><b>L03835</b></td> <td style="text-align: center;"><b>37</b></td> </tr> </table> <p style="text-align: center;"><b>PREVIOUS AMENDMENTS ARE VOID</b></p> <p>4. Expiration Date</p> <p style="text-align: right;"><b>August 31, 2005</b></p> | 3. License Number | Amendment Number | <b>L03835</b> | <b>37</b> |
| 3. License Number  | Amendment Number  |                   |                  |               |           |
| <b>L03835</b>  | <b>37</b>   |                   |                  |               |           |

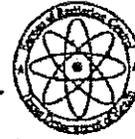
| RADIOACTIVE MATERIAL AUTHORIZED  |  |   |  |
|--|--|---|--|
| <p>5. Radioisotope</p> <p>A. Any radioactive material with atomic number less than 83 and with a half-life less than 120 days</p> <p>B. Ir-192/Ir-194</p> <p>C. Sc-46</p> <p>D. Sb-124</p> <p>E. Kr-85</p> <p>F. Co-60</p> | <p>6. Form of Material</p> <p>A. Any (except sealed sources)</p> <p>B. Any (except sealed sources)</p> <p>C. Any (except sealed sources)</p> <p>D. Any (except sealed sources)</p> <p>E. Any (except sealed sources)</p> <p>F. Any (except sealed sources)</p> | <p>7. Maximum Activity*</p> <p>A. No single unit quantity to exceed 40 mCi<br/>Total activity of any single radioisotope not to exceed 2 Ci.</p> <p>B. No single unit quantity to exceed 40 mCi of either isotope<br/>Total: 15 Ci</p> <p>C. No single unit quantity to exceed 40 mCi<br/>Total: 4000 mCi</p> <p>D. No single unit quantity to exceed 40 mCi<br/>Total: 4000 mCi</p> <p>E. No single unit quantity to exceed 20 Ci<br/>Total: 40 Ci</p> <p>F. No single unit quantity to exceed 20 mCi<br/>Total: 500 mCi</p> | <p>8. Authorized Use</p> <p>A. Tracer studies in oil, gas and geothermal wells. Field flood studies and inter-well tracer studies.</p> <p>B. Tracer studies in oil, gas and geothermal wells. Field flood studies and inter-well tracer studies.</p> <p>C. Tracer studies in oil, gas and geothermal wells. Field flood studies and inter-well tracer studies.</p> <p>D. Tracer studies in oil, gas and geothermal wells. Field flood studies and inter-well tracer studies.</p> <p>E. Tracer studies in oil, gas and geothermal wells. Field flood studies and inter-well tracer studies.</p> <p>F. Tracer studies in oil, gas and geothermal wells. Field flood studies and inter-well tracer studies.</p> |

\* Ci-Curies mCi-Millicuries µCi-Microcuries





Texas Department of Health  
**BUREAU OF RADIATION CONTROL**



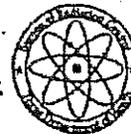
**RADIOACTIVE MATERIAL LICENSE**

| LICENSE NUMBER | AMENDMENT NUMBER |
|----------------|------------------|
| L03835         | 37               |

| 5. Radioisotope<br>(continued) | 6. Form of Material<br>(continued) | 7. Maximum Activity*<br>(continued)                           | 8. Authorized Use<br>(continued)   |
|--------------------------------|------------------------------------|---|--|
| G. H-3                         | G. Any (except sealed sources)     | G. No single unit quantity to exceed 20 Ci<br>Total: 300 Ci   | G. Tracer studies in oil, gas and geothermal wells. Field flood studies and inter-well tracer studies. |
| H. C-14                        | H. Any (except sealed sources)     | H. No single unit quantity to exceed 20 mCi<br>Total: 1 Ci    | H. Tracer studies in oil, gas and geothermal wells. Field flood studies and inter-well tracer studies. |
| I. P-32                        | I. Any (except sealed sources)     | I. No single unit quantity to exceed 20 Ci<br>Total: 100 Ci   | I. Tracer studies in oil, gas and geothermal wells. Field flood studies and inter-well tracer studies. |
| J. Cl-36                       | J. Any (except sealed sources)     | J. No single unit quantity to exceed 20 mCi<br>Total: 500 mCi | J. Tracer studies in oil, gas and geothermal wells. Field flood studies and inter-well tracer studies. |
| K. Fe-55                       | K. Any (except sealed sources)     | K. No single unit quantity to exceed 20 mCi<br>Total: 500 mCi | K. Tracer studies in oil, gas and geothermal wells. Field flood studies and inter-well tracer studies. |
| L. Co-58                       | L. Any (except sealed sources)     | L. No single unit quantity to exceed 20 mCi<br>Total: 500 Ci  | L. Tracer studies in oil, gas and geothermal wells. Field flood studies and inter-well tracer studies. |
| M. Ni-63                       | M. Any (except sealed sources)     | M. No single unit quantity to exceed 20 mCi<br>Total: 500 mCi | M. Tracer studies in oil, gas and geothermal wells. Field flood studies and inter-well tracer studies. |
| N. Sr-90                       | N. Any (except sealed sources)     | N. No single unit quantity to exceed 20 mCi<br>Total: 500 mCi | N. Tracer studies in oil, gas and geothermal wells. Field flood studies and inter-well tracer studies. |
| O. Ir-192,<br>Sb-124,<br>Sc-46 | O. Zero Wash* beads                | O. No single source to exceed 50 µCi                          | O. Collar markers in gas and oil wells.  |



Texas Department of Health  
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RADIOACTIVE MATERIAL LICENSE

|                |                  |
|----------------|------------------|
| LICENSE NUMBER | AMENDMENT NUMBER |
| L03835         | 37               |

| 5. Radioisotope<br>(continued) | 6. Form of Material<br>(continued)   | 7. Maximum Activity*<br>(continued)        | 8. Authorized Use<br>(continued)  |
|--------------------------------|--|--|---|
| P. Co-60                       | P. Metal Strips  | P. No single source to exceed 50 $\mu$ Ci  | P. Collar markers in gas and oil wells.   |
| Q. Cs-137                      | Q. Solid   | Q. No single source to exceed 50 $\mu$ Ci  | Q. Collar markers in gas and oil wells.   |
| R. Am-241                      | R. Sealed source<br>(Gm Model AN-HP;<br>GN Model VL-1;<br>BEBIG Model<br>Am.G11) | R. No single source to exceed 250 $\mu$ Ci | R. Calibration and stabilization source in Halliburton TSCAN logging tool.          |
| S. Ba-133                      | S. Sealed source (IPL Model HEG-133)   | S. No single source to exceed 2 mCi        | S. Calibration/stabilization source in Cedar Bluff Group fluid identification tool. |
| T. Am-241                      | T. Sealed source (IPL Model HEG-241)   | T. No single source to exceed 250 $\mu$ Ci | T. Calibration/stabilization source in Halliburton TSCAN logging tool.              |

9. The licensee shall comply with the provisions (as amended) of Title 25 Texas Administrative Code (TAC) §289.201, §289.202, §289.203, §289.204, §289.205, §289.252, §289.253 and §289.257.

10. Radioactive material shall only be stored at:

| Site Number | Location                                |
|-------------|---|
| 004         | Kilgore - 2505 Highway 42 North         |
| 005         | Houston - 1160 Dairy Ashford, Suite 444 |
| 006         | Alice - 815 Commerce Street             |
| 007         | Midland - 2001 Commerce Street          |
| 008         | Houston - 9830 Rosprim                  |

11. The licensee shall limit storage of Ir-192 and Ir-194 to 5000 mCi at all storage locations except the Kilgore, Texas facility which is authorized to maintain no more than 15 Ci of Ir-192 and Ir-194 total. This condition does not supersede the maximum allowable activity as authorized in Part B of Condition 7.

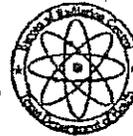
12. The authorized place of use is at temporary sites, in areas not under exclusive Federal jurisdiction, throughout Texas.

13. In addition to the possession limits in Condition 7, the licensee shall further restrict the possession of licensed material to quantities below the limit specified in 25 TAC §289.252(u)(4)(C) for establishing decommissioning financial assurance.

14. Radioactive material shall be used by, or under the direct supervision of, individuals designated by the Radiation Safety Officer (RSO) only after each worker has successfully completed an Agency accepted training course. Documentation verifying the successful completion of the training for each worker shall be maintained by the licensee for inspection by the Agency.



Texas Department of Health  
BUREAU OF RADIATION CONTROL



RADIOACTIVE MATERIAL LICENSE

| LICENSE NUMBER | AMENDMENT NUMBER |
|----------------|------------------|
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15. The individual designated to perform the functions of RSO for activities covered by this license is **Will C. Williams**.

16. Radioactive material shall not be stored or used at a permanent site unless that site is specifically authorized on this license. A site is considered permanent if radioactive material is stored and/or used at that location for more than 90 days in any twelve month period.

In accordance with 25 TAC §289.202(o)(1) and §289.202(ddd)(1), the licensee is hereby exempted from limits required in 25 TAC §289.202(ggg)(2) and §289.2029(ggg)(8), when radioactive material is released during a "sandout" or when material must otherwise be reversed out of a gas or oil well. The released material shall be handled and/or disposed in a manner outlined in the procedures submitted with the application dated July 27, 1995, or ~~discarded in a Class II disposal well for non-hazardous waste.~~

18. Individuals involved in operations which utilize, during any 24 hour period, more than 50 mCi of I-125 and/or I-131 or unvented laboratory operations involving 10 mCi of I-125 and/or I-131 in a noncontained form shall have bioassays performed within one week or if the use of I-125 and/or I-131 is on a continual basis, bioassays shall be performed once every two weeks. Records of the bioassays shall be maintained for inspection by the Agency and the action points listed below shall be observed.

A. Whenever the thyroid burden at the time of measurement exceeds 0.12  $\mu$ Ci of I-125 or 0.04  $\mu$ Ci of I-131, the following actions shall be taken:

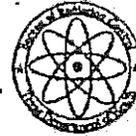
- (1) An investigation of the operations involved, including ventilation surveys shall be carried out to determine the causes of exposure and to evaluate the potential for further exposures.
- (2) If the investigation indicates that further work in the area might result in exposure of a worker to concentrations that are excessive, the licensee shall restrict the worker from further exposure until the source of exposure is discovered and corrected.
- (3) Corrective actions that will eliminate or lower the potential for further exposures shall be implemented.
- (4) A repeat bioassay shall be taken within 1 week of the previous measurement in order to confirm the effectiveness of the corrective action taken or to verify internal radioiodines present.
- (5) Reports or notification shall be provided as required by 25 TAC §289.202(yy) and §289.202(aaa).

B. If the thyroid burden at any time exceeds 0.5  $\mu$ Ci of I-125 or 0.14  $\mu$ Ci of I-131, the following actions shall be taken:

- (1) Prevent the individual from any further handling of I-125 or I-131 until the thyroid burden is below the above limits.
- (2) Carry out all steps described above.
- (3) As soon as possible, refer the case to appropriate medical consultation for recommendations regarding therapeutic procedures that may be carried out to accelerate removal of radioactive iodine from the body. This should be done within two to three hours after exposure when the time of exposure is known so that any prescribed thyroid blocking agent would be effective.
- (4) Carry out repeated measurements at approximately one week intervals at least until the thyroid burden is less than 0.12  $\mu$ Ci of I-125 or 0.04  $\mu$ Ci of I-131.



Texas Department of Health  
BUREAU OF RADIATION CONTROL



AUG 3 1999

**RADIOACTIVE MATERIAL LICENSE**

| LICENSE NUMBER | AMENDMENT NUMBER |
|----------------|------------------|
| L03835         | 37               |

19. Individuals involved in operations which utilize, at any one time, more than 100 mCi of tritium in a noncontained form, other than metallic foil, shall have bioassays performed within one week following a single operation and at weekly intervals for continuing operations.
20. The licensee is authorized to discard all radioactive material authorized in Conditions 5, 6, 7 and 8 and listed in 25 TAC §289.202(ggg)(7), whose half lives do not exceed 300 days, in a Type I municipal solid waste site in accordance with the provisions of 25 TAC §289.202(fff)(4) and procedures submitted with application dated July 27, 1995.
21. The licensee is hereby exempted from the requirements of 25 TAC §289.253(n)(1)(D) only for users of radioactive material authorized in Part R of Conditions 5, 6, 7 and 8. The licensee shall maintain a separate utilization log containing, as a minimum, the make and model number and/or serial number (or if absent, a unique description) of each sealed source authorized by Part R of Conditions 5, 6, 7 and 8 removed from storage, the identity of the logging supervisor receiving the sources of radiation, the locations where used and dates of use. These utilization logs shall be kept available for inspection by the Agency for five years from the date of the recorded event.
22. Except as specifically provided otherwise by this license, the licensee shall possess and use the radioactive material authorized by this license in accordance with statements, representations, and procedures contained in the following:

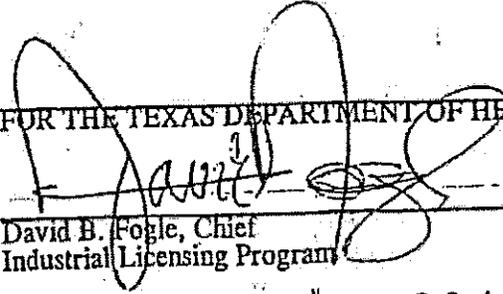
application dated July 27, 1995,  
 letters dated September 23, 1995, March 14, 1997, April 28, 1997, June 16, 1997, July 14, 1997,  
 January 7, 1998, March 3, 2000, May 23, 2000 and  
 letter received September 9, 1998 with attached letter dated November 11, 1994.

Title 25 TAC §289 shall prevail over statements contained in the above documents unless such statements are more restrictive than the regulations.

WPS:da

FOR THE TEXAS DEPARTMENT OF HEALTH

Date: July 24, 2000

  
 David B. Fogle, Chief  
 Industrial Licensing Program

No 468137

Remarks:

Region IV Reviewer: Louis C. Carson II, Sr. Health Physicist, DNMS  
Region IV Reviewer: Jack E. Whitten, Sr. Materials Analyst, DNMS  
Reviewer Code: L83112

Request Needed by: 02 /21/03

bcc:  
EWMerschoff  
TPGwynn  
KEBrockman  
CLCain  
JEWhitten, SMA  
DACool, NMSS/INMS  
JBCarrico, NMSS/INMS/MSIB  
SLMerchant, NMSS/INMS/RGB  
LCCarsonII  
NMLB  
FCDB  
RIV Nuclear Materials File - 5th Floor.

DOCUMENT NAME: S:\DNMS\mb\LCC\CORELAB-TAR.wpd  
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| LCCarsonII <i>LC</i> | CLCain <i>LC</i> | JEWhitten <i>JE</i> | KEBrockman <i>KB</i> |
|                      |                  |                     |                      |
| 01/24/03             | 01/24/03         | 01/24/03            | 01/24/03             |

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# **INCIDENT AND COMPLAINT SUMMARIES FOR THE**

## **FOURTH QUARTER 2010\***

Prepared by:  
Art Tucker, Ray Jisha, Annie Backhaus, Chris Moore, Karen Blanchard

Texas Department of State Health Services  
Regulatory Services Division  
Inspections Unit  
Radiation Branch

\* Any complaint and/or incidents involving hospitals on or after August 30, 1999 are not releasable under the Texas Public Information Act & the Health and Safety Code Chapter 241.051(d). These summaries will not appear in this report.

**Incident and Complaint Summaries  
4th Quarter 2010**

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## Incidents Opened Fourth Quarter 2010

### I - 8790 - Medical Event - Baylor Radiosurgery Center - Dallas, Texas

\* Health and Safety Code Chapter 241.051(d)

No violations were cited.

File closed.

### I - 8791 - Regulatory Violation - Nyla C. Gordon, D.D.S - Brownsville, Texas

On October 7, 2010, the Agency received notice from its remote inspection group that a registrant may have fraudulently prepared documents that were submitted to the Agency for an equipment performance evaluation (EPE) on a dental x-ray unit. An investigation of the service provider who performed the EPE was conducted by the Agency on November 5, 2010. An on-site investigation of the dental office was conducted by the Agency on November 16, 2010. Dates on the EPE documents appeared to have been altered to bring the dental office in compliance with Agency regulations. The dental office stated the changes had been made because the service provider wrote the wrong date on the forms. The investigation could not confirm that the documents had been fraudulently prepared. However, the service provider was cited one violation for failing to maintain records of calibration of radiation detection equipment for inspections.

File closed.

### I - 8793 - Transportation Violation - Panhandle Nuclear Rx - Amarillo, Texas

On October 1, 2010, the Agency was notified that the receipt survey of a package received at a Texas hospital exceeded the limits for removable contamination on the external surface. The package had been shipped to the hospital by a nuclear pharmacy licensed by the State of Texas. An on-site investigation was conducted by the Agency on October 7, 2010. The investigation revealed that the nuclear pharmacy technician had packaged and surveyed a shipment of single units for shipment to the hospital and then he drew a bulk sample from a molybdenum generator for the pharmacist. He inadvertently contaminated his left glove while drawing the sample. The technician then picked up the package and transported it to the hospital while still wearing the same gloves he had worn to obtain the bulk sample. This resulted in contamination of the package. The technician waited at the hospital until the package receipt survey was completed. The hospital identified the contamination during the receipt survey and advised the technician. The technician returned to his facility and performed a contamination survey and found his left hand contaminated. He washed his hands and the contamination level of his left hand was significantly reduced, but still above free release limits. The technician's hand was placed in a glove until the radioactive material decayed to less than detectable levels later that same day. A small amount of contamination was found on the steering wheel of the delivery vehicle when surveyed by the licensee; it was decontaminated. The technician's finger ring dosimeter was sent off for processing and the results were 1,538 millirem to his right hand and 1,843 millirem to his left hand. The licensee retrained the technician in contamination control and the proper procedures for handling radioactive material including leaving an area after handling radioactive material. The licensee was cited for the contamination event.

File closed.

## Incidents Opened Fourth Quarter 2010

### I - 8794 - Gauge Shutter Failure - International Paper Company - Queen City, Texas

On October 21, 2010, the Agency received a "Notice of Reciprocity" from an out-of-state licensee. The notice stated that the out-of-state licensee was replacing two "stuck shutters" for one of the Agency's licensees. The Agency contacted its licensee. The licensee stated that one shutter had failed in the closed position on October 20, 2010. The licensee stated the second shutter scheduled to be repaired had not failed, but it was found to be difficult to operate and the licensee opted to have it replaced along with the shutter that did fail. Repairs were made to the shutters on October 22, 2010. The licensee provided additional training for staff on the performance of routine gauge inspections and shutter checks as corrective action. No violations were cited.

File closed.

### I - 8795 - Gauge Shutter Failure - Ticona Polymers, Inc. - Bishop, Texas

On October 25, 2010, the licensee was locking one of its fixed gauges out of service when it discovered that the gauge shutter was stuck in a partially open position. The gauge was an Ohmart Vega model SH-F2-45 gauge containing 0.06 curies of cesium (Cs) - 137. The licensee reported that there was no risk of additional exposures to any personnel. A service provider repaired the gauge shutter on October 26, 2010. The service provider stated that the cause for the failure was excessive build up of bird droppings on the shutter operating mechanism which clogged the mechanism. The licensee stated that they were working with the manufacturer to determine an appropriate action to prevent a recurrence of the problem. No violations were cited.

File closed.

### I - 8796 - Transportation Event - FedEx Express - El Paso, Texas

On November 9, 2010, the Agency received a notification from the Radiation Safety Officer (RSO) for a shipper of radioactive materials. The RSO stated that a package received at a nuclear pharmacy in El Paso (Licensee-A) had been crushed during delivery and contamination was found inside the package. The package was originally delivered to another Texas licensee (Licensee-B) on November 6, 2010. According to the courier, the outer package did not appear damaged when it was delivered to Licensee-B. The Type A package contained two indium (In) - 111 vials with a total activity of 10.63 millicuries at the time of shipment on November 5, 2010. During transit, the package had been crushed and one of the vials of In-111 broke inside its thin-walled lead pig. Upon receipt by Licensee-B, a removable contamination survey of the outside of the package was performed and no removable contamination was detected. The package was rejected by Licensee-B and returned to Licensee-A. The transport vehicle was surveyed for removable contamination, but none was detected. No violations were cited.

File closed.

## Incidents Opened Fourth Quarter 2010

### I - 8797 - Radioactive Material Identified At Landfill - Christus Santa Rosa Hospital, San Antonio, Texas.

\* Health and Safety Code Chapter 241.051(d)

No violations were cited.

File closed.

### I - 8798 - Radiography Source Disconnect - Team Industrial Services - Alvin, Texas

On November 22, 2010, the Agency received notice from the licensee that it had experienced a radiography source disconnect on November 21, 2010. The equipment was reportedly inspected prior to use and passed all checks including tolerance testing of the connector mechanism on the drive cable. On the 25th exposure, after two and a half hours of work, the drive cable and source assembly failed to retract into the camera. Multiple attempts to retract the source were unsuccessful as evidenced by mechanical indications and radiation surveys. Barriers were established at a 2 mR/hr dose rate, shielding was stacked on the source, and an individual authorized for source retrieval was contacted. The source was retrieved. No exposure limits were exceeded during the event. The radiography camera, guide tube, and cranking device were sent to the manufacturer for inspection, but no cause was determined for the failure. No violations were cited.

File closed.

### I-8799 - Source Abandoned Down Hole - Schlumberger Technology Corporation, Sugarland, Texas - Garza County

On November 22, 2010, the Agency was notified of an irretrievable well logging source that had been abandoned downhole at a site in Garza County. Fishing efforts for the source had commenced when the tool string broke leaving one 1.7 curie cesium (Cs) -137 source in the clay formation while another source was safely recovered. The source was abandoned in accordance with Railroad Commission rules. The well was plugged with 200' of red dyed cement to 3,620' topped with an upside down drill bit as a deflection device. The required warning plaque was ordered by the licensee and will be placed at the well head. No violations were cited.

File closed

## Incidents Opened Fourth Quarter 2010

### I - 8800 - Transportation Event - Protechnics Division of Core Lab - La Salle County, Texas

On November 26, 2010, the Agency was notified that a well-logging truck had been involved in a traffic accident which resulted in the death of the driver. The radioactive material onboard the vehicle included 240 millicuries of iridium (Ir) -192, 160 millicuries of scandium (Sc) - 46, and 320 millicuries of antimony (Sb) - 124, stored in DOT Type A containers inside an overpack. The overpack was thrown from the vehicle and the lid opened up several inches. U.S. Border Patrol personnel who responded to the accident performed an initial survey and determined there was no radiation hazard. The licensee responded and verified there had been no release of radioactive material. The licensee transported the material to their licensed facility in Alice, TX. It was determined there had been no threat to public health as a result of the incident. No violations were cited.

File closed.

### I - 8801 - Damaged Device Containing Radioactive Material - Bed Bath and Beyond - Austin, Texas

On November 19, 2010, the Agency was contacted by a contractor licensee from California requesting reciprocity to work at a store in Austin to remove and dispose of a tritium exit sign (TES). The store was contacted by the Agency and questioned about the work involving the TES. The store manager stated that the exit sign was mounted on a pole coming down from the ceiling. An employee was working on the top of a storage rack in the area of the sign and knocked it loose from the pole and it fell to the floor. The employee picked the sign up, placed it into plastic bags, took the sign to a storage locker, and locked the door. A contractor was contracted to clean up any contamination and dispose of the sign. The contractor stated that two tubes had broken in the sign. It was estimated that a maximum of 1.5 - 2.0 curies of tritium would have been released. The contractor prepared the sign for shipment and disposal. The contractor surveyed appropriate areas of the store and the highest removable tritium contamination levels found were 214 dpm/100 cm<sup>2</sup>. Bioassay samples were collected from the two store employees involved in the event. Both samples indicated that the committed exposure was less than 1 millirem. The personnel received additional training on the proper handling of TES and a company wide inventory of TES was conducted. No discrepancies were reported. No violations were cited.

Filed close.

### I - 8802 - Patient Treatment Error - Oncology Hematology Consultants PA dba Center for Cancer and Blood Disorders - Fort Worth, TX

On December 16, 2010, the Agency was informed by the registrant's Radiation Safety Officer (RSO) that the registrant had inadvertently failed to administer treatment to an intended area. While the disease had been noted on both sides of a specific region in the patient, only one side was treated. The error was caught on a routine follow-up visit and the patient was informed at that time. Although there was no evidence of recurrence, the physician decided to complete treatment of the other side as originally intended. The RSO had all staff review responsibilities for identifying the correct area to be treated for external beam therapy. No violations were cited.

File closed.

## Incidents Opened Fourth Quarter 2010

### I - 8803 - Equipment Malfunction - H & H X-Ray Services Inc - Flint, Texas

On December 17, 2010, the Agency was notified by the licensee that on December 10, 2010, the locking device on a QSA model 880 camera containing 97 curies of iridium (Ir) – 192 failed to activate. The radiography crew (Crew-A) had completed operations on one location at a site near Lufkin, Texas, and was moving to a new location at the same site. The radiography camera with the cranking device and guide tube still attached were placed in the dark room of the radiographers' truck. The licensee stated that a survey was conducted to verify the source was in the fully-shielded, locked position. As the radiographer was driving to the new location, he passed about 5 feet from another group of radiographers (Crew-B) from the same licensee. As Crew-A passed by Crew-B, Crew-B's alarming dosimeters alarmed. Crew-B stopped Crew-A and told them that their alarms had gone off. Crew-A went to the camera, picked up the crank for the camera, and found that the source had moved from the locked position approximately one quarter of a turn. The radiographer cranked the source back to the fully-shielded position and secured the camera for transportation. The Agency conducted an on-site investigation at the licensee's facility. The investigation determined that the locking device operated for the six days between the event and the day the Radiation Safety Officer for the licensee was informed of the event. The licensee tested the camera and found the locking device to be operating properly. The locking device was dismantled and all parts were found to be in good working order. It was determined that the radiographers had not properly retracted the source to the locked position. The radiographer's dosimetry was processed and neither had exceeded a dose limit. The radiographers were released from their employment with the licensee. The radiographer was cited for four violations.

File closed.

### I - 8804 - Missing Equipment Containing Radioactive Material - Lockheed Martin Aeronautics Company - Fort Worth, Texas

On December 22, 2010, the Agency received a written report from the company stating that they could not locate 84 tritium exit signs containing an estimated total of less than 630 curies of tritium. The signs had been boxed in preparation for return shipping to the manufacturer in February 2010, but were being held until they could be repackaged to conform with the manufacturer's packaging requirements. In November 2010 the company decided to repack and ship the signs but they could not locate them. The company searched its facility and investigated all potential routes by which the signs could have left the premises. During the investigation, the manufacturers/distributors of the signs were contacted by the company for assistance in determining the serial numbers of signs supplied to their facility. Serial numbers were available for only 17 of the signs. It was discovered that there were 23 additional signs that were unaccounted for, thereby raising the total number of missing signs to 107. The current (decay-corrected) total activity of those signs is approximately 625 curies. The company had an evaluation conducted that considered the most likely scenarios—incineration by its hazardous waste disposal vendor, burial in the municipal landfill, or the signs are still on the company's premises. According to the evaluation, no dose exceeding regulatory limits to any member of the public would result from any of these scenarios. The company determined the cause of the incident was lack of communication and handling the signs outside of their normal hazardous waste procedures. The company stated that in the future all hazardous items will be processed through their existing hazardous waste management system with no exceptions. It will notify this Agency if the signs are located. No violations were cited.

File closed.

## Incidents Opened Fourth Quarter 2010

### I - 8805 - Badge Overexposure - Midwest Inspection Services - Perryton, Texas

On December 28, 2010, the Agency was notified that a radiographer working for the licensee had exceeded an annual exposure limit. The licensee's Radiation Safety Officer (RSO) stated that the exposure was to the badge only. The RSO stated that he had interviewed the radiographer involved. The radiographer stated that he had dropped his badge while conducting radiography at a location and completed an examination of between 20 to 25 welds before he observed his badge on the ground. The RSO stated that the average exposure to the radiographer in the previous 6 months was 343 millirem and that his work load had not significantly changed. The licensee has assigned a dose to the radiographer of 343 millirem. The RSO stated that the radiographer received additional training on the proper location and method of wearing his dosimetry. The RSO stated that the event was discussed with all company radiographers. No violations were cited.

File closed.

## Incidents Opened in a Previous Quarter and Closed in Fourth Quarter 2010

### I - 8749 - Possible Abandoned Radioactive Material - Site Concrete Incorporated - Grand Prairie, Texas

On May 25, 2010, an Agency inspector informed the central office that she had gone to a licensee's facility to perform a routine inspection on May 21, 2010, and found the door locked. The inspector left a note on the door requesting that the licensee contact her to set up a time for the inspection. The inspector returned to the address on May 25, 2010, and found the door was locked, but saw people inside and knocked on the door. She asked for the licensee's Radiation Safety Officer (RSO) and was told that the company she was looking for was no longer at that location. A new company had purchased the facilities in January 2010 and no one could provide any additional contact information for the licensee. A search of the licensee's file revealed a letter from the Agency's licensing program to the licensee, dated June 6, 2009, which outlined the steps necessary to terminate the license. No additional information on the disposition of the gauges was contained in the license file. The licensee had been in possession of two Troxler moisture/density gauges, 3400 model series, each containing 40 millicuries of americium (Am) - 241 and 8 millicuries of cesium (Cs) - 137. Three service providers were contacted to see if they had any records regarding the licensee's gauges. One of the companies had serviced the gauges, but they did not have any information on them after June 2006. Contact information for a previous RSO for the licensee was located and the RSO was contacted by the Agency. The RSO stated that he had left the company in May 2007. He stated that just before he left the company, the new RSO stated that the licensee was going to sell the gauges and terminate their license. The previous RSO could not provide any additional information about the gauges or contact information for any of the individuals he had worked with while serving as the RSO. An e-mail was sent to all Agency radioactive materials inspectors notifying them that the gauges were missing and requesting that they notify the Agency's Incident Investigation Program staff if they discovered any of the gauges during inspections. No violations were cited.

File closed.

### I - 8753 - Gauge Shutter Failure - NRG Texas Power LLC - Jewett, TX

On June 11, 2010, the Agency was notified by the licensee that the shutters on six gauges failed in the open position. Three of the gauges were manufactured by Berthold and each contained 30 millicuries (decay corrected to approximately 17 millicuries) of cesium (Cs) - 137. The other three gauges were manufactured by Ohmart/VEGA and each contained 150 millicuries (decay corrected to approximately 86 millicuries) of Cs - 137. The licensee stated that dose rates taken in the area were normal, since the shutters failed in their normal operating positions. The licensee believes the Ohmart gauges failed because they were located in an area that was exposed to an unspecified amount of limestone powder. The licensee reported that the limestone powder concentrated near the shutter mechanism, and combined with moisture to form cementitious material that subsequently caused the gauge to fail. The licensee stated that it appeared that the Berthold shutters stuck because a "corrosive liquid seeped into the source shield along the metal shaft that operates the on/off mechanism." No violations were cited.

File closed.

## Incidents Opened in a Previous Quarter and Closed in Fourth Quarter 2010

### 1 - 8762 - Overexposure - IBA Molecular North America - Dallas, Texas

On July 16, 2010, the Agency was notified by the licensee that an employee's personal dosimeter had received 4,153 millirem, resulting in a total of 5,809 millirem deep dose equivalent for the year, exceeding the annual dose limit. The licensee stated that the work load for the month of June 2010 was not significantly greater than the previous months, but that they had problems with their cyclotron and had been purchasing bulk units of fluorine (F) - 18 from two providers. During their investigation, the licensee (Licensee-A) discovered that on June 9, 2010, a package of F-18 from another licensee (Licensee-B) had been damaged during shipment. Licensee-A stated that the package was transferred from Licensee-B's transport vehicle to Licensee-A's transport vehicle in Centerville, Texas. No surveys were performed and no shipping papers were obtained by Licensee-A during the transfer. When the package arrived at Licensee-A's facility, the site manager performed an arrival survey. The dose rate at one meter from the package was 47 millirem and the contact reading over-ranged his survey meter. The swipe survey indicated that there was no removable contamination on the package. Licensee-A's site manager stated that when he opened the package to remove the vial of F-18, he found the vial had come out of the shielding and was lying on top of the packaging material. Licensee-A did not report the event to the Agency as required by regulation. The Agency performed on-site investigations at both Licensee-A's and Licensee-B's facilities. During the investigations, both licensees provided conflicting information on the layout of shielding for the vial. It was determined that the package was damaged sometime during the event, but neither licensee could offer an explanation on how the vial separated from the shielding materials. No pictures were taken by the Licensee-A. Through Licensee B's investigation, it was determined that the vial could not separate from the shielding unless the package was opened. Due to the conflicting information from both licensees, the Agency could not determine how the vial separated from the shielding. Licensee-A determined that the overexposure was caused by deficiencies in their procedures for handling bulk vials of F-18, a lack of adequate equipment to handle this type of material, errors in judgment by people handling the bulk vials, and a lack of communication within their company. Corrective actions by Licensee-A included removing the individual receiving the overexposure from any duties involving exposure to additional radiation, no longer receiving bulk F-18 units until new procedures have been put in place, replacing broken vial handling equipment, ordering backup parts, and providing additional training for their personnel. Licensee-A was cited violations for the overexposure, failure to report the transportation event, and failure to obtain shipping papers for the transportation of radioactive materials.

File closed.

## Incidents Opened in a Previous Quarter and Closed in Fourth Quarter 2010

### I - 8765 - Possible Abandoned Radioactive Material - Duncanville Medical Center - Duncanville, Texas

\* Health and Safety Code Chapter 241.051(d)

No violations cited.

File closed.

### I - 8769 - Damaged Device Containing Radioactive Material - Chevron Phillips Chemical Company - Borger, Texas

On August 5, 2010, the Agency received a report from the licensee's Radiation Safety Officer (RSO) stating that a nuclear gauge had been separated from its anchor. The RSO stated that maintenance activities were being performed in the area. During the maintenance, the concrete floor holding the gauge mounting bracket was removed for repair thereby removing the gauge from its original mounted location. The RSO responded to the location and locked the shutter in the closed position. The gauge was placed in a storage location. Radiation surveys taken around the gauge indicated dose rates were normal. While conducting an investigation of the incident, the RSO determined that two of the workers had been exposed to the direct beam of the source during this event. Interviews with the workers indicated that the workers had been within two feet of the unshielded source for less than thirty seconds. The deep dose equivalent to the two workers were calculated to be 10 and 31 millirem for the event. The licensee was cited for allowing the dose rate to exceed 2 millirem in any one hour in an unrestricted area.

File closed.

### I - 8773 - Badge Overexposure - Turner Industries Group - Paris, Texas

On August 17, 2010, the Agency was notified by the licensee that a radiographer's badge read 37,064 millirem for the month of July, 2010. The radiographer was sent to a local medical facility to have his blood tested. The test did not indicate any abnormal exposure to radiation. Samples of the individual's blood were sent to Radiation Emergency Assistance Center/Training Site (REAC/TS.) REAC/TS' evaluation indicated no exposure above background had occurred. The licensee has adjusted the radiographer's exposure to 30 millirem for the exposure period based on his pocket dosimeter readings. The licensee believes the badge may have been exposed by another employee, but could not prove it. The licensee has changed its procedures to require the shift supervisor to issue the badges at the start of each shift. No violations were cited.

File closed

## Incidents Opened in a Previous Quarter and Closed in Fourth Quarter 2010

### I - 8775 - Badge Overexposure - Texas Gamma Ray - Pasadena, Texas

On August 23, 2010, the Agency was notified by the licensee that two of its radiographers had exceeded an annual exposure limit. An on-site investigation was conducted by the Agency on September 14, 2010. The licensee's Radiation Safety Officer (RSO) stated that the two individuals terminated their employment with the company on July 20, 2010, and had left their badges in the glove compartment of the company truck that had been assigned to them. The truck was used as a work bench for other radiographers next to the location where test weld samples were examined. The RSO stated that the radiographer trainer had been injured early in the month of June, 2010, and had not worked since. The radiography trainee had been reassigned to a different trainer until he left their employment. The RSO calculated the dose the badges would have received in the truck based on the daily use logs for that location. The licensee determined that the most conservative dose the badges could have received was 3,123 millirem. The Agency calculated the dose to be between 2,762 millirem for a fully shielded source and 44,202 millirem for an unshielded source. The licensee assigned a dose of 832 millirem to both individuals for the two exposure periods using one twelfth of the annual limit per period. A violation for failure to process individual monitoring devices within 14 days after the exchange date was cited.

File closed.

### I - 8778 - Gauge Shutter Failure - Cryovac Inc. - Iowa Park, Texas.

On September 3, 2010, the Agency was notified by the licensee that on September 2, 2010, the shutter on a nuclear gauge failed to fully open during a routine maintenance check. The gauge contains a 150 millicurie americium (Am) - 241 source. The gauge shutter was locked closed. The gauge was removed from the vessel and placed in storage. The dose rate measured at three feet from the gauge was 0.4 millirem/hour and the dose rate at 6 inches from the gauge was measured at 11.8 millirem/hour. The manufacturer was contacted and on September 3, 2010, repaired the gauge. The manufacturer's technician found the failure was caused by the shutter roller assembly. The technician replaced the shutter roller assembly with an assembly of a different design and the gauge operated properly. No radiation exposure exceeding regulatory limits was received by any individual during this event. No violations were cited.

File closed.

## Incidents Opened in a Previous Quarter and Closed in Fourth Quarter 2010

### I - 8782 - Source Leak Test Exceeds Limit - Southwest Research Institute - San Antonio, Texas

On September 7, 2010, the Agency was notified by the licensee that a source leak test had exceeded the limit. The source had been previously checked on July 7, 2010, and found to be leaking, but below the level requiring a report to this Agency. The licensee's Radiation Safety Officer (RSO) requested that it be retested and the results of the second test showed an activity of 0.0106 microcuries. The source was sealed in a plastic bag and the storage area was sealed and properly posted. The licensee stated that they plan to decontaminate the drawer where the source had been stored after providing additional training to the individuals who will perform the decontamination. The RSO stated that the source will be shipped to a licensed service provider for repair or disposal. No violations were cited.

File closed.

### I - 8784 - Impersonating a State Employee - Ronald James LeBlanc, Sr. - Orange, Texas

On September 20, 2010, the Agency was notified by a licensee that one of its radiography crews was approached by an individual who identified himself first as an Agency inspector and then as the Radiation Safety Officer for Orange County. The licensee stated that the radiography crew had set up their barricades and was making preparations, but had not yet begun radiographic operations. The individual made statements that the barricades were wrong, told the radiographers that the calibration on the survey meters should be every three months instead of six, and became hostile and began yelling. The individual reached across the barricade and slapped the survey meter off the truck onto the ground. One radiographer notified their main office of the incident. The individual continued to portray himself as a person of authority by asking for the radiographer's state certification card. After the individual left the site, he called the licensee's office. The office manager stated the individual identified himself as the "Orange County RSO" and said there was an x-ray crew that did not have the proper equipment and the licensee needed to do something about it. The licensee stated they did not call local law enforcement because they did not feel the security of the source was compromised. The radiographers identified the individual by a photograph from Agency files. At the time of the incident, the individual held a current radiography certification from the Agency. The individual admitted to an Agency investigator that he had made statements that he was a state inspector and the Orange County Radiation Safety Officer, stating he did so because he observed actions by the radiography crew that he felt posed a serious hazard and he made the claims about his identity to get their attention. The individual's claims concerning the actions of the radiography crew could not be substantiated. No violations were cited against the licensee. One violation was cited against the individual and his industrial radiography certification was revoked.

File closed.

## Incidents Opened in a Previous Quarter and Closed in Fourth Quarter 2010

### I - 8787 - Transportation Violations - Texas Health Harris Methodist Hospital - Fort Worth, Texas

\* Health and Safety Code Chapter 241.051(d)

Two violations were cited against the licensee.

File closed.

### I - 8789 - Lost Source of Radioactive Material - Texas Department of State Health Services - Austin, Texas

On September 17, 2010, a routine, semi-annual leak test and inventory of all licensed sealed sources was performed by the licensee. During the course of the inventory, one 17.5 microcurie sealed cobalt (Co) - 60 source was discovered to be missing. The licensee's Radiation Safety Officer rechecked storage/transportation packages, the room where their radioactive material is stored, the vehicle used to transport the package, and the last location where the source had been used. The source was not found. The procedure for inventorying sources after each use has been modified to prevent a recurrence. No violations were cited.

File closed

### I - 8792 - Radiation Exposure to Member of General Public - Desert Industrial X-Ray LP - Denton, Texas

On September 23, 2010, the Agency was notified by the licensee of an incident involving a member of the public. The licensee reported that while conducting radiography operations at a temporary job site, a non-radiation worker from another contractor received an exposure to radiation when he entered the area where radiography using a 38 curie iridium (Ir) - 192 source was being performed. The licensee stated that two of the licensee's radiographers were performing radiography on a water tower. Access to the work area was limited to the use of a man-lift. The radiographers were not trained to use the man-lift, so one of the contractor's employees used the lift and became responsible for changing out the films. A miscommunication occurred while the source was cranked out causing the non-radiation worker to think that the radiographers had instructed him to retrieve the film. The licensee performed dose calculations for the non-radiation worker, and it was determined that he received a whole body dose of 18 millirem for the exposure. The licensee did not exceed the regulatory exposure limit for a member of the public. However, a member of the general public was exposed to a radiation area that was greater than 2 millirems in any one hour. The licensee was cited for the violation.

File closed.

## Complaints Opened Fourth Quarter 2010

### C - 2282 - Laser Injury - BioDerm Skin Care and Laser Center - Arlington, TX

On October 5, 2010, the Agency received a complaint stating that during a laser hair removal procedure the complainant suffered burns and scarring. The complainant claimed the injury resulted from faulty equipment and the technician trainee administering the laser procedure was inexperienced and improperly supervised. The Agency contacted the complainant for more information and conducted an onsite unannounced investigation on October 14, 2010. The investigation revealed that the complainant had received mild, superficial burns and hyper-pigmentation. The complainant had consulted an independent dermatologist to assess her injury. On October 29, 2010, the complainant requested that the Agency stop the investigation and she did not provide investigators with her dermatologist's name, so further investigation into extent of injury could not be accomplished. Information obtained from the complainant and the facility was that the technician was accompanied/supervised by a more experienced technician. The equipment was current on required service and inspection. The complaint could not be substantiated. One unrelated violation was cited.

File closed.

### C - 2283 - Inadequate Credentialing - Alamo Heights Surgicare LP - San Antonio, Texas

On October 6, 2010, the Agency received an allegation that inadequately credentialed registered nurses and/or physician assistants were performing fluoroscopic procedures. The Agency conducted an on-site investigation on October 26, 2010. The investigation revealed that only physicians were performing fluoroscopic procedures. The complaint could not be substantiated. No violations were cited.

File closed.

### C - 2284 - Response to Public Concern - Southside Orthopaedic and Rehabilitation - San Antonio, Texas

On October 22, 2010, the Agency received a complaint from an individual concerned that he may have received excessive radiation exposure from a recent x-ray of his foot. The investigation into this complaint revealed that a routine inspection had been conducted by an Agency x-ray inspector on September 22, 2010. The results of the inspection demonstrated that the facility and equipment were in compliance with regulations. A letter was sent to the complainant explaining the recent inspection findings. No violations were cited.

File closed.

## Complaints Opened Fourth Quarter 2010

### C - 2285 - Laser Injury - NeoSkin - San Antonio, Texas

On November 4, 2010, the Agency's radiation incident investigators received a complaint that was forwarded to them for investigation from the Agency's drugs and medical devices group. The complaint had been received by them on April 7, 2008. The complaint alleged that a business was using lasers on humans for hair removal and had caused burns to two individuals. The complaint also stated that the business did not have a medical director nor did they have physician oversight of the treatments. Investigation revealed that the company had since gone out of business. The complaint could not be substantiated. No violations were cited.

File closed.

### C - 2286 - Unregistered Laser - Clearstone Laser Hair Removal - Houston, Texas

On November 5, 2010, the Agency received an anonymous complaint stating that a provider of laser procedures for hair removal was operating without proper registration with the Agency and without proper posting of warning signs on the laser treatment room. Additionally, the complainant believed they had received excessive burns from treatment at the facility. Follow-up communications with the complainant revealed there had been no medical treatment for the alleged burns and no photographs had been taken. On December 15, 2010, the Agency conducted an on-site investigation. The investigation revealed there were Class 4 lasers in use since January 2010 and the facility was not registered with the Agency. Additionally, the facility was using improper warning signs and four pairs of protective eyewear were cracked. During the investigation, the owner admitted that one patient had received burns on October 5, 2010, that required medical attention from a physician. The owner would not give the Agency records related to the burn during the on-site investigation. The facility filed its injury report with the Agency on January 5, 2011. Portions of the complaint were substantiated. Two violations were cited.

File closed.

## Complaints Opened Fourth Quarter 2010

### C - 2287 - Monitoring Not Provided - Banfield Pet Hospital of The Woodlands - Shenandoah, Texas

On November 16, 2010, the Agency received a complaint from a veterinarian that he had not been provided dosimetry while he worked at a veterinary hospital operating an x-ray device. The letter stated that he had requested a badge, but one was never provided. He also stated that other individuals working at the hospital did not always wear their badges when they were in the area of the operating x-ray device. On December 22, 2010, two Agency inspectors performed an unannounced investigation at the registrant's location. A review of the registrant's records confirmed that the complainant had not been monitored for occupational exposure for radiation. The review also found that the registrant did not have personnel monitoring records of occupationally exposed individuals for the last five exposure periods for individuals working at this location. The registrant was cited for the two violations. The complaint was substantiated.

File closed.

### C - 2288 - Regulatory Violations - Woodlake Imaging and Diagnostics - Houston, Texas

On November 16, 2010, the Agency received a complaint alleging that a facility was using an unregistered x-ray machine and committing numerous additional violations. An on-site investigation was conducted on December 14, 2010, subsequent to an inspection five days earlier. Neither the inspection nor the investigation could substantiate any of the allegations. No violations were cited.

File closed.

### C - 2289 - No Physician Supervision for Laser or Intense Pulsed Light Treatment - Natural Skin Creations Day Spa - Houston, TX

On November 16, 2010, the Agency received an anonymous complaint stating that a provider of laser and intense pulsed light (IPL) procedures for skin treatment and hair removal was operating without proper registration with the Agency, without licensed medical practitioner supervision, without properly trained technicians, and without proper posting of warning signs on the IPL/laser treatment room. The Agency conducted an on-site investigation on December 14, 2010. The investigation revealed the facility did not have a contract with, or supervision by, a licensed practitioner of the healing arts, they did not have hazard warning signs posted as required, and they possessed and used a Class 4 laser for which they were not registered with the Agency. The technicians' training did meet the current training requirements. The complaint was substantiated. Two violations were cited.

File closed.

## Complaints Opened Fourth Quarter 2010

### C - 2290 - Response to Public Concern - Private Residence - Houston, Texas

On November 8, 2010, the Agency received notification from its answering service of a message from an individual that stated "Last night, 11/7 there was a sound like a nuclear reactor up the street. There's plutonium." An Agency investigator attempted to contact the individual three times before finally succeeding on November 15, 2010. The individual stated that there had been a plutonium explosion in her neighborhood last week because she heard a noise. She stated that there was no visible fire or explosion, but that she knew it was plutonium because of the sounds she heard and the way the humming noises propagated. The individual stated that when plutonium explodes, it makes a humming sound that comes in waves because the radiological particles react over and over again, and those are the waves that one hears. She also stated that she has had a problem with plutonium contamination in her home. She stated that she removed it herself when she saw it. She stated that the contamination looked "translucent and waxy" in appearance, and that if one were to listen carefully, one would hear the plutonium humming. She stated that people from the "Harris County Radiation Control" performed a survey a few weeks ago at her home. The investigator asked the her if she was given any results of the survey that was performed. She stated that those performing the survey had a Geiger counter and that "it was clicking." The individual then stated that she knows people in her neighborhood have been poisoned with plutonium because their faces appeared smashed, like they have been put into a press. She stated that this physical manifestation is characteristic of plutonium poisoning. The investigator tried to assure the individual that plutonium is a highly regulated material, and it was not likely that her home was contaminated with plutonium. The investigator stated that they could perform a survey of her residence to determine if any plutonium was present, and she replied that she would appreciate that. The investigator made several unreturned phone calls to the individual to arrange a date and time to survey her residence. On December 15, 2010, two Agency investigators went to the individual's address, knocked on the door, and no one answered the door. One investigator took a radiation survey of the outside of the house and did not detect any radiation above background. The investigators then moved to a public area approximately two blocks from the individual's home and the investigators took a soil sample from the area. On December 23, 2010, the sample was analyzed; no concentrations of any radionuclides above regulatory limits were revealed. The complaint could not be substantiated. No violations were cited.

File closed.

### C-2291 - Uncredentialed Technologists - Rafael De La Flor-Weiss - Spring, Tx

On December 6, 2010, the Agency received a complaint that the office manager and other staff members were performing x-rays at an urgent care center without proper credentials. On December 15, 2010, an unannounced inspection was conducted by an Agency inspector and two investigators. Four staff members were interviewed and records were reviewed. The complaint could not be substantiated. Two unrelated violations were cited.

File closed.

## Complaints Opened Fourth Quarter 2010

### C - 2292 - Regulatory Violation - Berry Fabricators - Corpus Christi, Texas

On December 8, 2010, the Agency received a phone call from an individual who stated that he had a friend who worked for the licensee and that the friend had not been issued any personnel monitoring devices, did not have any radiation survey instruments, and that the guide cables were in such bad shape that they were often unable to retract sources into the camera. He stated that when sources did stick, the workers were required to perform source retrievals. An on-site investigation was attempted by the Agency on December 16, 2010. The licensee's Radiation Safety Officer (RSO) was contacted, but he stated he had worked the night shift and would not come in to the plant. There were no individuals at the facility that could provide access to records needed to conduct the investigation. A routine inspection was conducted on February 10, 2011. The RSO stated to the inspector that their records had been boxed up when he moved from one office to another and were inadvertently thrown into the trash. The RSO stated that they would not be doing any radiography work in the near future. The inspection report included 17 violations. On April 2, 2011, the Agency was contacted by an individual who stated that the licensee was conducting radiography operations in an unsafe manner. An on-site investigation was conducted on April 9, 2011, but the allegations could not be substantiated. No additional violations were cited.

File closed.

### C - 2293 -Inadequate Credentialing - Emergency Medicine Specialist LLP - Richardson, Texas

On December 14, 2010, the Agency received a complaint stating that individuals performing x-rays for the registrant are not credentialed. The Agency conducted an inspection at the facility on January 11, 2011, and the operators were verified as having proper and current credentials. The complaint was not substantiated. Three non-related violations were cited.

File closed.

### C - 2294 - Radiation Exposure to Member of General Public - Houston Medical Clinic - Houston, Texas

On December 15, 2010, the Agency received a anonymous complaint alleging that an individual had received excessive radiation exposure from an x-ray machine located in a room adjacent to her work station. It was alleged that this exposure resulted in two miscarriages. The Agency conducted an on-site investigation. The investigation revealed that the x-ray machine had not been used since approximately October 2010. The investigation also revealed that due to the type of machine and its positioning in the room, the beam could not have been directed toward the area where the individual worked. In addition, distance from the work station and building structure would have reduced any scatter radiation from the use of the machine to levels below regulatory limits. The complaint was not substantiated. No violations were cited.

File closed.

## Complaints Opened Fourth Quarter 2010

### C - 2295 - Inadequate Credentialing - Family Medicine Rural Health Clinic PA - Copperas Cove, Texas

On December 16, 2010, the Agency received an anonymous complaint alleging that the registrant was allowing an employee whose license had expired to take x-rays as well as allowing another individual to take x-rays who was not licensed. The Agency conducted an on-site investigation. Required certifications were current for technicians performing x-ray procedures. The complaint was not substantiated. Three violations, unrelated to the complaint, were cited.

File closed.

### C - 2296 - Unregistered X-ray Equipment - Integrated Pain Associates - Killeen, Texas

On December 20, 2010, the Agency received a complaint stating the facility was operating a C-Arm machine for exposures on humans without proper registration. An Agency investigator found that an application for a certificate of registration from the facility was received by the Agency on December 31, 2010. An on-site investigation was conducted on March 8, 2011. The investigation revealed that the facility had submitted their request for registration on December 6, 2010. They received the C-Arm device in early January 2011, but had not operated the device until January 13, 2011. The C-Arm was surveyed by a licensed medical physicist on January 17, 2011, and required no adjustments. The area where the machine was used was properly posted and current procedures were available. The complaint was not substantiated. No violations were cited.

File closed.

### C-2297 - Inadequate Credentialing - Injury Medical Clinic - El Paso, TX

On December 21, 2010, the Agency received a complaint alleging that staff at a medical clinic was not calibrating their x-ray equipment properly and the staff at the facility was not adequately trained. On January 27, 2011, an Agency inspector performed an on-site inspection at the registrant's facility. The inspector found that the equipment performance evaluations had been completed as required and the inspector was not able to identify any instances where non-credentialed personnel performed a procedure. The complaint could not be substantiated. No violations were cited.

File closed.

## Complaints Opened Fourth Quarter 2010

### C - 2298 - Regulatory Violations - Wilson Inspection X-Ray Services - Corpus Christi, Texas

On December 15, 2010, the Agency received a complaint alleging that a radiography company was performing radiography work at a temporary job site without setting up proper barriers. On December 16, 2010, two Agency investigators performed an on-site investigation. The investigators interviewed the complainant and were informed that the radiography crew was no longer performing radiography for them, but were still on site working for a subcontractor. He also stated that he had observed a second crew performing radiography work about a mile from this location. The investigators found the first radiography crew on the east end of the facility. The crew was sitting in their truck and did not appear to have any work to perform in the near future. The inspectors drove to the second location and there they found a second truck from the licensee sitting on the side of the road. As they drove past, they saw two individuals sitting in the cab of the truck and there were drive cables and a radiography camera on the tailgate of the truck. No one had direct control of the camera. The investigators found that neither radiographer had an electronic alarming dosimeter, that both self-reading dosimeters were off scale, the trainee did not have a copy of his credentials, radiation surveys had not been conducted during radiography operations, and the radiographer trainer was not providing supervision of the trainee as required. The original complaint was not substantiated. The radiographer trainer and the licensee were cited for the violations that were observed.

File closed.

### C-2299 - Uncredentialed Technologist and Other Regulation Violations - Family Medicine Clinic - Lampasas, TX

On December 16, 2010, the Agency received a complaint alleging that non-certified technicians were being required to take x-rays of minors, that there was no technique chart available for children, and that x-rays were being ordered by not only the doctor and nurse practitioner but also by nurses and medical assistants. The complaint further alleged the exposure to patients was uncertain, the films and cassettes don't match, the exposure settings were being doubled to take x-rays, and the staff was working with three or more technique charts to take x-rays. The agency conducted an on-site investigation. The investigation revealed that a Non-Certified Technologist (NCT) had taken x-rays of a minor that were outside the scope of her certification. It was also found that entrance exposures to the chest exceeded regulatory limits. The issues of films and cassettes not matching, practice of simply doubling settings, and multiple technique charts being in the control room were addressed with the registrant in regard to best practice. The complaint was substantiated. Three violations were cited.

File closed.

## Complaints Opened in a Previous Quarter and Closed in Fourth Quarter 2010

### C - 2194 - Allegation of Abandoned Radioactive Material - Trace Life Sciences Inc. - Denton, Texas

On April 16, 2009 an email complaint was received by the Agency alleging the licensee had abandoned radioactive material at its facility. An Agency inspector was sent to the facility to determine if there were any potential risks to the health and safety of the public. The inspector found that the facility was adequately secured and ascertained there was no eminent threat to the public. The Agency learned that the licensee has been experiencing financial difficulties and is seeking additional financial investment. After many months of observations and negotiations, a business and decommissioning plan has been submitted with a licensing and fee payment schedule agreed upon. The complaint was not substantiated and no violations were cited.

File closed.

### C - 2241 - Regulation Violations - DFW MRI LP - Dallas, Texas

On February 2, 2010, the Agency received a phone call from an anonymous source with a long list of very detailed violations on a variety of radiation producing machines against the registrant. The facility has computerized tomography (CT) and radiographic machines and the complaint was submitted by a person who described himself as a "concerned technologist". According to the complainant, the violations had been occurring since July 2009. On October 10, 2010, the Agency conducted an investigation/inspection at both of the registrant's licensed sites. No violations were cited.

File closed.

### C - 2268 - Uncredentialed Technologists - Ulupi A. Choksi, MD - Kingwood, Texas

On July 5, 2010, the Agency received a complaint that a technologist was performing bone density exams without the proper credentials. On September 30, 2010, an Agency inspector performed an announced investigation. The inspector asked the registrant about the technologist allegedly performing bone densitometry exams. The registrant stated that the technologist had performed exams from February 2007 to July 2010. The registrant stated that they discovered the technologist was not credentialed and the technologist's employment was terminated on July 7, 2010. The complaint was substantiated. One violation was cited.

File closed.

## Complaints Opened in a Previous Quarter and Closed in Fourth Quarter 2010

### C - 2269 - Laser Registration - Beautiful You Laser Spa - Pharr, Texas

On July 8, 2010, the Agency received a complaint alleging that an unregistered individual was commercially performing laser hair removal at a private residence. The complainant had hearsay information that a person had possibly received minor burns. An on-site investigation was performed by the Agency on July 15, 2010. The investigation revealed that an individual had purchased an intense pulsed light (IPL) /radio frequency (RF) system and an RF cavitation unit through eBay directly from a company in China. Neither of the machines had the required Food and Drug Administration labeling showing they were certified as complying with design, labeling, and manufacturing standards. The individual used the IPL device on a human and was not under the supervision of a practitioner of the healing arts. Following the on-site visit, the individual closed her business and, at a later date, disposed of the devices. The information concerning possible burns could not be substantiated. Two violations were cited.

File closed.

### C - 2270 - Laser Physician Supervision - Rain Skin and Body - Harker Heights, Texas

On July 26, 2010, the Agency received an anonymous complaint concerning a laser hair removal establishment in Harker Heights, TX. The complaint stated that there was inadequate physician supervision of the use of a laser and intense pulsed light device. The complainant alleged that burns had resulted from hair removal and photo rejuvenation procedures. The Agency conducted an on-site investigation on August 11, 2010. The establishment had one Class 4 laser and one intense pulsed light device and both were being used for hair removal and other procedures. The LSO confirmed that he had a contract with a physician. The complaint concerning lack of supervision by a practitioner of the healing arts could not be substantiated. The investigation was unable to substantiate the complaint of burns as a result of the use of the laser on humans. No violations were cited.

File closed.

### C - 2271 - Potential Exposure to Individual - San Benito Animal Hospital - San Benito, Texas

On July 30, 2010, the Agency received an anonymous complaint regarding scatter radiation to employees at a veterinary clinic in San Benito, TX. The complaint alleged that employees' hands could be seen in the outer field/perimeter of the x-rays taken by digital x-ray machine. On September 9, 2010, the Agency conducted an unannounced on-site investigation. A broad sampling of x-rays were inspected and images of human hands holding animals without wearing required protective devices were observed. The investigation also revealed that the owner/veterinarian had purchased the business, including a digital x-ray machine, in July 2010 and had failed to register within 30 days as required. The complaint was substantiated. Two violations were cited.

File closed.

## Complaints Opened in a Previous Quarter and Closed in Fourth Quarter 2010

### C - 2275 - Regulatory Violations - Gene Gant - Houston, Texas

On August 10, 2010, the Agency received a complaint alleging that a U.S. Food and Drug Administration (FDA) Form 2579 had been fraudulently prepared. The FDA Form 2579 is to be prepared by the person installing a radiation machine, and it is subsequently sent to the Agency. The preliminary investigation determined that an individual who installed the equipment did so without a Certificate of Registration from the Agency as required. The individual was being pursued by the State's Office of the Attorney General (OAG) at that time. Copies of the documents collected were submitted to the OAG and to a representative of the Food and Drug Administration. On October 1, 2010, a determination was made that the x-ray registrant whose machine was installed by an unregistered service provider had violated the rule requiring the use of registered service providers. Therefore, the investigation into this complaint was to be re-opened. On October 25, 2010, the Agency conducted an unannounced investigation at the registrant's facility where the dental machine had been installed. The Agency informed the registrant that the person who installed the equipment was not licensed by the Agency to service x-ray machines. The Agency cited one violation against the registrant for failure to have someone properly licensed by the Agency install the x-ray machine.

File closed.

### C - 2277 - Response to Public Concern - Various Auto Painters - Dallas and Houston, Texas

On August 3, 2010, the Agency received an allegation referred to them by the Nuclear Regulatory Commission. It was alleged that a device manufactured by the 3M Company containing radioactive material and designed for use in the auto-painting industry was not being properly controlled in automotive shops located in Houston and Dallas. The Agency contacted the complainant for additional information. The complainant could not provide any specific information on the device, but stated that he believed the device had a radioactive sticker on it and therefore, it contained radioactive material. He stated that he was a paint salesman for DuPont Paint for automotive applications and had encountered several instances in the Dallas and Houston areas where he had observed improper storage or disposal of the devices. The complainant was unable to specifically name locations where he had observed the devices. The Agency contacted several individuals at 3M including the Material Safety Data Sheet coordinator and a member of its Regulatory Affairs Group. None of these individuals knew of any devices manufactured by 3M for use in the automotive paint industry that utilized any type of radiation. Several auto dealers in Dallas, Houston, and Austin were contacted and their automotive paint managers were interviewed. None of these individuals knew of any device that had utilized any source of radiation. A search of 3M's automotive paint application web site did not find any reference to the use of any source of radiation in any painting application. The complaint was not substantiated. No violations were cited.

File closed.

## Complaints Opened in a Previous Quarter and Closed in Fourth Quarter 2010

### C - 2279 - Laser Registration - Bella Medical Spa - Marble Falls, Texas

On September 17, 2010, the Agency received a complaint from an individual regarding safety practices of a facility using lasers for hair removal at a medical spa in Marble Falls, Texas. The complainant was contacted for more information. Most of the complainant's concerns were outside the scope of Radiation Control's laser regulations. The complainant was informed that he/she could contact the Texas Medical Board concerning those issues. The complainant also stated that the medical spa may not be registered for its laser. An unannounced on-site investigation was conducted on October 13, 2010. The investigation confirmed that there were Class 4 lasers in use and the facility was not registered with the Agency. The complaint was substantiated. One violation was cited.

File closed.

### C - 2281 Thorium Oxide for Experiments - Conscious Alchemy, LLC - Spring, TX

On September 28, 2010, the Agency received a call from a distribution company reporting that a customer using a health company name who had previously ordered 250 grams of thorium oxide, a general license product, was now ordering an additional kilogram. The distribution company was concerned that the customer may be using the material in health products. After contacting the customer, it was determined that the powder was used to coat material on a metallic substrate for experiments related to a fuel economy invention. The customer did not expect to need any additional thorium oxide for experiments. The complaint was not substantiated. No violations were cited.

File closed.



Pennsylvania Department of Environmental Protection

909 Elmerton Avenue  
Harrisburg, PA 17110-8200  
January 28, 2010

Southcentral Regional Office

717-705-4703  
FAX -- 717-705-4890

NOTICE OF VIOLATION

PRIORITY MAIL DELIVERY CONFIRMATION NO. [REDACTED]

[REDACTED]  
Operations Manager  
Citrus Energy Corporation  
[REDACTED]

Dear Mr. Searfoss:

It is the Department's understanding that Citrus Energy Corporation (Citrus Energy) contracted Core Laboratories, L.P. - ProTechnics Division (ProTechnics) to conduct a radioactive tracer study at [REDACTED] (well site), located along [REDACTED] [REDACTED] (Site). On December 10, 2009, ProTechnics injected a gel solution that was comprised of water, sand and [REDACTED] under Pennsylvania Reciprocity License No. [REDACTED] and Texas License [REDACTED]. After the injection of [REDACTED] the ProTechnics' field representative left the well site.

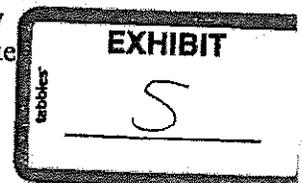
Following ProTechnics' departure from the well site, Citrus Energy pumped sand and water, which were contaminated with [REDACTED] (radioactive residual waste), to the surface and contacted Clean Harbors Environmental Services, Inc. (Clean Harbors) to remove the radioactive residual waste from an on-site tank.

On December 21, 2009, Clean Harbors emptied the on-site tank and transported the radioactive residual waste to the Lancaster Oil Company (d/b/a Environmental Recovery Corporation of PA (ERC)).

On December 22, 2009, ERC transported a roll-off container, which included the radioactive residual waste to Modern Landfill for disposal. Upon entering the scale at Modern Landfill, a radiation monitor was alarmed and Modern Landfill notified the Department of this event.

The following violation is noted:

- 25 Pa. Code § 287.54(a)(1) requires the performance of a detailed analysis to fully characterize the physical properties and chemical composition of each type of waste generated.



January 28, 2010

On December 10, 2009, Citrus Energy failed to conduct a proper waste analysis of the radioactive residual waste prior to contacting Clean Harbors to remove the waste.

You are hereby notified of the existence of a violation as well as the need to provide prompt corrective action. Failure to correct the violation may result in legal proceedings under the Radiation Protection Act and the Solid Waste Management Act. Under each Act, each day of violation is considered a distinct and separate offense and will be handled accordingly.

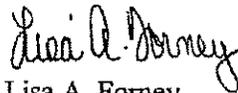
Be advised that the violation described above constitutes a public nuisance under Section 309 of the Radiation Protection Act, 35 P.S. § 7110.309, as well as Section 610 of the Solid Waste Management Act, 35 P.S. § 6018.601. This may subject you, under Section 308(e) of the Radiation Protection Act, 35 P.S. § 7110.308(e) and Section 605 of the Solid Waste Management Act, 35 P.S. § 6018.605 to civil penalty liability of up to (\$25,000) for each violation. Additionally, under the Radiation Protection Act, penalties may be assessed up to (\$5,000) per day for each continuing day of violation.

The Department requests that a written response be sent within 14 days of the receipt of this Notice of Violation. The response should include, but not be limited to a typed letter that provides a detailed description of the actions taken to avoid any future occurrences.

This Notice of Violation is neither an order nor any other final action of the Department. It neither imposes nor waives any enforcement action available to the Department under any of its statutes.

Thank you for your cooperation. If you have any questions, please call me at 717-705-4898.

Sincerely,



Lisa A. Forney  
Compliance Specialist  
Radiation Protection Program

bcc: CO File  
SCRO File  
S. Acker  
L. Fomey

# Program Managers' Conference Call

Wednesday, June 16, 2010

9:30 – 11:30 am

## MINUTES

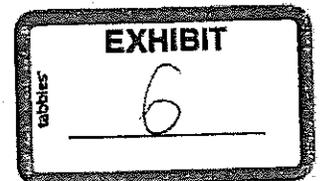
### Participants

- CO: Steve Socash, Laura Henry, Joe Sieber, Renee Bartholomew (BWM)  
Dave Allard, Jim Barnhart (BRP)
- SE: Joe Feola, Jim Wentzel
- NE: Bill Tomayko, Tracey McGurk
- SC: John Oren, John Spang
- NC: Pat Brennan
- SW: Mike Forbeck, Diane McDaniel
- NW: Todd Carlson, Joel Fair

### Topics Discussed

- o **Next meeting:** Thursday, September 9, 2010, RCSOB 14<sup>th</sup> floor Large Conference Room; face-to-face meeting directly after the SWANA/PWIA Conference
- o **Iridium-192 at Rustick LF & NORM/TENORM Issues** (see associated e-mail)  
Dave Allard discussed this case and additional NORM/TENORM issues associated with disposal of frac fluid at MWLF's. Rustick had a hit of Iridium-192 in waste generated at an Oil & Gas well in which the drilling was traced by ProTechnics, a company out of Texas that utilizes Iridium-192 beads for tracing the efficiency of a well fracture. ProTechnics is currently the only company utilizing this technology in PA, and the Department has come across some compliance issues concerning disposal of the resulting waste. ProTechnics' license allows for in-situ decay on site with subsequent disposal at a LF; however, it has been discovered that drill cuttings may have been improperly managed. RP is currently seeking to take enforcement action against ProTechnics, and recent WM inspections will probably result in enforcement action by that program as well.

In general, Radium has been an issue; it has also been found in the solid component of the frac waste. It is OK for a MWLF to dispose of this material under a BRP exemption, and Regional WM staff has the ability to approve its disposal. BRP requirements include maintenance of a spreadsheet of loads containing TENORM for tracking purposes. It is important that WM and RP continue to coordinate with each other on these issues (enforcement actions, handling for disposal, etc.) and that WM keeps RP in the loop when it sees new sources of TENORM coming in for disposal.





**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
RADIATION PROTECTION PROGRAM



December 23, 2013

PRIORITY MAIL DELIVERY CONFIRMATION NO.: [REDACTED]

[REDACTED]  
ProTechnics Division of Core Laboratories LP  
[REDACTED]

Re: License No. [REDACTED]  
November 2, 2010 Consent Order and Agreement

Dear Mr. Flecker:

Thank you for participating in the December 18, 2013 conference and for clarifying the events that resulted in the issuance of the November 26, 2013 Notice of Violation. As you know, the Department was represented by: Ms. Lynn E. Langer, Mr. Robert M. Zaccaro, Mr. Joseph H. DeMan, Mr. Richard F. Croll, Ms. Jennifer N. Noll and myself. Mr. Will Williams and Mr. Craig Konieczny were present on behalf of ProTechnics Division of Core Laboratories, LP (ProTechnics). In addition to you, Mr. Larry Stephenson and Mr. Ron Blush participated via telephone.

As a result of the discussions, the following action items were developed and agreed upon by ProTechnics and the Department:

- As a result of violations of the November 2, 2010 Consent Order and Agreement (COA), stipulated civil penalties totaling \$75,000 are due by January 15, 2014. Acceptable forms of payment include cashier's check, certified check and money order. Payment will need to be payable to the "Commonwealth of Pennsylvania, Radiation Protection Fund" and mailed to my attention.
- It is the Department's understanding that the language of the Radioactive Tracer Well Site Agreement (Well Site Agreement) has created many questions from Well Owner/Operators and that revision may be warranted. Please draft revisions to the Radioactive Tracer Well Site Agreement in Attachment A and submit them by January 15, 2014.
- The Department will review any suggested revisions and schedule a conference call in the event that additional discussion is necessary.
- Upon final approval of the Well Site Agreement, the Department will draft an Addendum to the COA, which will then be executed by both parties.

Southcentral Regional Office | 909 Elmerton Avenue | Harrisburg, PA 17110-8200  
717.705.4703 | Fax 717.705.4890  
www.depweb.state.pa.us

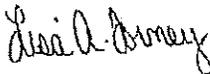
December 23, 2013

- 2 -

- The Addendum will require ProTechnics to submit a License Amendment request within 14 days of the execution of the Addendum. The amendment will request a License Condition requiring the submission of the newly revised Well Site Agreement as specified in the COA.
- The Addendum will also require an annual meeting between representatives of ProTechnics and the Department. The annual meeting will be initiated by ProTechnics and will occur in May of each year.

Thank you for your cooperation. If you have any questions, please feel free to contact me at 717.705.4898.

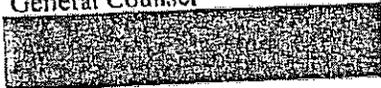
Sincerely,



Lisa A. Forney, MEPC  
Compliance Specialist  
Radiation Protection Program

Enclosures

cc: General Counsel



[REDACTED]

December 23, 2013

bcc: SCRO – License No. [REDACTED] File Via L. Forney  
CO File – Via Electronic Filing  
L. Forney  
R. Zaccano  
J. DeMan  
S.K. Portman  
J. Chippo  
J. Melnic  
D. Allard  
R. Croll - SERO  
J.N. Noll - SERO

General Counsel

[REDACTED]

Please send email to [REDACTED] & [REDACTED] with the note:

Enclosed please find a courtesy copy of Department correspondence being sent today. Any questions regarding this document or its contents should be directed to Lisa Forney at 717.705.4898 or lforney@pa.gov.



Pennsylvania Department of Environmental Protection

909 Elmerton Avenue  
Harrisburg, PA 17110-8200  
January 28, 2010

Southcentral Regional Office

717-705-4703  
FAX - 717-705-4890

NOTICE OF VIOLATION

PRIORITY MAIL DELIVERY CONFIRMATION NO. [REDACTED]

[REDACTED]  
Core Laboratories, L.P.- ProTechnics Division  
[REDACTED]

Re: License No. [REDACTED]

Dear Mr. Hampton:

The Department is aware that the services of Core Laboratories, L.P. - ProTechnics Division (ProTechnics) were enlisted by [REDACTED] in order to conduct a radioactive tracer study at the [REDACTED] (well site), located along [REDACTED]. On December 10, 2009, ProTechnics injected a gel solution, which was comprised of water, sand and [REDACTED] under Pennsylvania Reciprocity License No. [REDACTED] and Texas License No. [REDACTED]. After the injection of [REDACTED] the ProTechnics' field technician left the well site.

Following ProTechnics' departure from the well site, Citrus Energy pumped sand and water, which were contaminated with [REDACTED] to the surface. Clean Harbors Environmental Services, Inc. (Clean Harbors) removed the radioactive material from an on-site tank on December 21, 2009 and transported the radioactive material to the [REDACTED]. [REDACTED] in turn, transported a roll-off container, which included the radioactive material to Modern Landfill for disposal on December 22, 2009. Upon entering the scale at Modern Landfill, a radiation monitor was alarmed and Modern Landfill notified the Department of this event.

The following violation is noted:

- 25 Pa. Code § 217.1(a) requires that a person may not receive, possess, use, transfer, own or acquire radioactive material except as authorized under a specific license. Specifically, Texas Radioactive Material License [REDACTED] Conditions [REDACTED] and [REDACTED] require that the released radioactive material be possessed, handled and/or disposed in a manner outlined in the procedures submitted with the license application.

ProTechnics failed to ensure proper handling and disposal of the radioactive material after it had been pumped to the surface and sent for disposal at an off-site location.

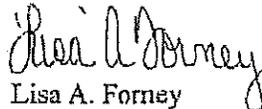
January 28, 2010

The Department is in receipt of an incident report, which described the corrective actions taken. Be advised that no additional response is necessary at this time.

This Notice of Violation is neither an order nor any other final action of the Department. It neither imposes nor waives any enforcement action available to the Department under any of its statutes.

Thank you for your cooperation. If you have any questions, please call me at 717-705-4898.

Sincerely,



Lisa A. Forney  
Compliance Specialist  
Radiation Protection Program

cc: [REDACTED] Radiation Safety Officer, Core Laboratories, L.P. - Protechnics Division



January 28, 2010

bcc: CO File  
SCRO File  
S. Acker  
L. Forney



# pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NORTHWEST REGIONAL OFFICE

*APC*  
*Anita Jones*  
*Yodd IC*

August 4, 2010

Mr. Chester Cheatle  
Elk Waste Services, Inc.  
134 Sara Road  
Saint Marys, PA 15857

Re: Consent Assessment of Civil Penalty

Dear Mr. Cheatle:

Please find enclosed a copy of the executed Consent Assessment of Civil Penalty (CACP) for your records.

Thank you for your cooperation in this matter.

If you have any questions concerning the CACP or any waste related issue please feel free to contact me at 814.332.6829.

Sincerely,

John R. Crow  
Solid Waste Supervisor  
Waste Management

Enclosure

cc: NWRO  
Enf. File

JRC:jb

