



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
612 EAST LAMAR BLVD, SUITE 400
ARLINGTON, TEXAS 76011-4005

April 10, 2008

Mr. Gerry Foell, Regional Roads Engineer
Department of the Interior
Bureau of Indian Affairs
Great Plains Regional Office
Aberdeen, South Dakota 57401

SUBJECT: NRC INSPECTION REPORT 030-08502/2008-01 AND NOTICE OF VIOLATION

Dear Mr.

This refers to the inspection conducted on February 19, 2008, at your facility in Aberdeen, South Dakota. The inspection was an examination of activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations and with the conditions of the license. Within these areas, the inspection consisted of selected examination of procedures and representative records and interviews with personnel. Preliminary inspection findings were discussed with Mr. Bill Whiteside, Radiation Safety Officer at the conclusion of the onsite portion of the inspection. A final exit briefing was conducted with you telephonically on March 17, 2007.

Based on the results of this inspection, the NRC has determined that two violations of NRC requirements occurred. These violations were evaluated in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy). The current Enforcement Policy is included on the NRC's website at www.nrc.gov/OE. The violations identified during the inspection are cited in the enclosed Notice of Violation (Notice). These violations involved failures to (1) periodically (at least annually) review the radiation protection program content and implementation and (2) test sealed sources for leakage at the required intervals. These violations are being cited in the Notice because they were identified by the NRC, rather than being self-identified by the licensee.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In addition, you should describe the steps you have taken, or will take to address our concerns about your management's attention to your radiation safety program and your Radiation Safety Officers's apparent lack of understanding of NRC requirements. For your consideration and convenience, an excerpt from NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION," is enclosed. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, Enclosure 1, and your response will be made available electronically for public inspection in the

Bureau of Indian Affairs

NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

Should you have any questions concerning this inspection, please contact Mr. Robert A. Brown at (817) 860-8130 or the undersigned at (817) 860-8287.

Sincerely,

/RA/

Vivian H. Campbell, Chief
Nuclear Materials Safety Branch A

Docket No.: 030-08502
License No.: 40-15053-01

Enclosures:

1. Notice of Violation
2. Information Notice 96-28

cc w/Enclosure 1:
South Dakota Radiation Control Program Director

Bureau of Indian Affairs

bcc w/Enclosure 1 (via ADAMS distrib):

ECollins

LWert

CLCain

VHCampbell

JEWhitten

RABrown

RITS Coordinator

NMSB-A

RIV Materials Docket File (5th Floor)

SUNSI review completed: ADAMS: Yes Initials: LD

Publicly Available Non Sensitive

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Final: r:_dnms\

RIV:DNMS:NMSB-A	C:NMSB-B	C:NMSB-A
RABrown	JEWhitten	VHCampbell
/RA/	/RA/	/RA/
03/24/08	04/08/08	04/08/08

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T=Telephone E=E-mail

F=Fax

NOTICE OF VIOLATION

Bureau of Indian Affairs
Aberdeen, South Dakota

Docket No. 030-08502
License No. 40-15053-01

During a NRC inspection conducted on February 19, 2008, two violations of NRC requirements were identified. In accordance with the Enforcement Policy, the violations are listed below:

- A. 10 CFR 20.1101(c) requires, in part, that the licensee shall periodically (at least annually) Review the radiation protection program content and implementation.

Contrary to the above, the licensee failed to periodically review its radiation protection program content, and implementation at least annually. Specifically, annual reviews of the licensee's radiation protection program were not conducted in 2006 and 2007.

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

- B. Condition 14. A of your license requires that sealed sources shall be tested for leakage and/or contamination at intervals not to exceed the intervals specified in the certificate of registration issued by U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or by an Agreement State. The interval specified in the certificate of registration is every 12 months.

Contrary to the above, the licensee failed to leak test sealed sources between May 11, 2005 and February 19, 2008; an interval exceeding 12 months.

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

Pursuant to the provisions of 10 CFR 2.201, Bureau of Indian Affairs, is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region IV, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

Enclosure

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential, commercial, or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

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

Dated this 10th day of March 2008

Enclosure