

March 10, 2010

EA-10-014

Mr. Carl P. Littrell, P.E.
City Engineer
Department of Public Works
Division of Engineering
City of South Bend
1316 County-City Building
South Bend, Indiana 46601

SUBJECT: NOTICE OF VIOLATION – CITY OF SOUTH BEND, INDIANA
NRC INSPECTION REPORT NO. 03018412/2010-001(DNMS)

Dear Mr. Littrell:

This refers to the inspection conducted on January 19, 2010, at the City of South Bend, Indiana. This 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 your license. Details regarding the violation were provided in U.S. Nuclear Regulatory Commission (NRC) Inspection Report No. 03018412/2010-001(DNMS), dated February 17, 2010. The circumstances surrounding the violation, the significance of the issues, and the need for lasting and effective corrective action were discussed with you at the inspection exit meeting on January 19, 2010.

In the letter transmitting the inspection report we informed you that we had sufficient information regarding the violation and your corrective actions for us to make an enforcement decision without the need for a Predecisional Enforcement Conference or a written response from you. In a telephone conversation on February 26, 2010, with Tamara Bloomer, Materials Inspection Branch Chief, you indicated that you agreed with the violation and would not be providing any additional information.

Based on the information developed during the inspection, the NRC has determined that one violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice), and the circumstances surrounding it are described in detail in the subject inspection report. The violation involved the failure to amend your NRC license to name a new individual as the Radiation Protection Officer (RPO) after the previous RPO left the company. The NRC determined that the root cause of the violation was a failure by the licensee to recognize that it was required to amend its license when the previous RPO left.

The violation is of concern to the NRC because the lack of an RPO could have resulted in unauthorized individuals operating the gauges or other licensed activities not being performed. Therefore, the violation has been categorized, in accordance with the NRC Enforcement Policy, as a Severity Level III violation.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3500 is normally considered for a Severity Level III violation. Because your facility has not been the subject of escalated enforcement actions within the last two years, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process described in Section VI.C.2 of the Enforcement Policy. As a short-term corrective action, you immediately designated an authorized user as the RPO. As long-term corrective action to prevent recurrence, you submitted, and the NRC approved, a license amendment request to name a new individual as the RPO on the license. Additionally, you indicated that you would pursue disposal or selling of the gauges and a license termination. The NRC determined that these corrective actions were adequate.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and to prevent recurrence, and the date when full compliance was achieved have already been adequately addressed on the docket in the inspection report dated February 17, 2010. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with Title 10 of the Code of Federal Regulations (10 CFR) 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov/about-nrc/regulatory/enforcement.html.

Sincerely,

/RA by Cynthia D. Pederson Acting for/

Mark A. Satorius
Regional Administrator

Docket No. 030-18412
License No. 13-15243-03

Enclosure:
Notice of Violation

cc w/encl: Larry Camparone, RPO
State of Indiana

Letter to Carl P. Littrell Mark A. Satorius dated March 10, 2010

SUBJECT: NOTICE OF VIOLATION – CITY OF SOUTH BEND, INDIANA
NRC INSPECTION REPORT NO. 03018412/2010-001(DNMS)

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NOTICE OF VIOLATION

City of South Bend
South Bend, Indiana

Docket No. 030-18412
EA-10-014

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on January 19, 2010, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

License Condition 11.B of NRC License No. 13-15243-03 requires that the Radiation Protection Officer for the activities authorized by the license be a specific named individual.

Contrary to the above, as of January 19, 2010, the individual named on the license as the Radiation Protection Officer (RPO) was no longer with the company. Specifically, the named individual had left the company in January 2009, and the licensee had not appointed a new RPO and had not amended the license.

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

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to be taken to correct the violation and to prevent recurrence, and the date when full compliance was achieved, have already been adequately addressed on the docket in Inspection Report 030-18412/2010-001(DNMS), dated February 17, 2010. However, you are required to submit a written statement or explanation pursuant to Title 10 of the Code of Federal Regulations (10 CFR) 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation EA-10-014," and send it to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738.

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

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

Dated this 10th day of March 2010

ENCLOSURE

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3500 is normally considered for a Severity Level III violation. Because your facility has not been the subject of escalated enforcement actions within the last two years, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process described in Section VI.C.2 of the Enforcement Policy. As a short-term corrective action, you immediately designated an authorized user as the RPO. As long-term corrective action to prevent recurrence, you submitted, and the NRC approved, a license amendment request to name a new individual as the RPO on the license. Additionally, you indicated that you would pursue disposal or selling of the gauges and a license termination. The NRC determined that these corrective actions were adequate.

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Sincerely,
/RA by Cynthia D. Pederson Acting for/
 Mark A. Satorius
 Regional Administrator

Docket No. 030-18412
 License No. 13-15243-03

Enclosure:
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cc w/encl: Larry Camparone, RPO
 State of Indiana

DISTRIBUTION:
 See next page

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OFFICE	RIII	RIII	RIII	RIII	D:OE	RIII	RIII
NAME	Bakhsh	Lougheed	Gattone for Bloomer	Louden for Reynolds	Day for Zimmerman ¹	Orth	Pederson for Satorius
DATE	03/09/10	03/09/10	03/09/10	03/09/10	03/08/10	03/09/10	03/10/10

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1. OE concurrence received via e-mail from K. Day on March 8, 2010.