



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
612 EAST LAMAR BLVD, SUITE 400
ARLINGTON, TEXAS 76011-4125

October 27, 2010

Helena Gravel and Sand, Inc. & Blahnick Construction
dba Helena Gravel and Sand
ATTN: Jerry Bowser.
Radiation Safety Officer
2209 Airport Rd PO Box 5960
Helena, Montana 59604-5960

SUBJECT: NRC INSPECTION REPORT 030-38138/10-001 AND NOTICE OF VIOLATION

Dear Mr. Bowser:

This refers to the inspection conducted on August 24, 2010, with in-office review until October 7, 2010, at your facilities in Helena and Hamilton, Montana. The inspection was an examination of activities conducted under byproduct materials License 25-29363-01 as it relates to safety and security and in compliance with the Commission's rules and regulations and 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 you and your staff at the conclusion of the onsite portion of the inspection. A final exit briefing was conducted with you on October 7, 2010.

Based on the results of this inspection, the NRC has determined that one violation of NRC requirements occurred. This violation involved the failure to have shipping papers prepared when transporting portable gauges containing radioactive material to and from temporary job sites. This violation was evaluated in accordance with the NRC Enforcement Policy included on the NRC's website at www.nrc.gov/about-nrc/regulatory/enforcement.html. The violation is cited in the enclosed Notice of Violation (Notice), and the circumstances surrounding it are described in the subject Notice. This violation is being cited in the Notice because it was 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. For your consideration and convenience, 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 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. Larry Donovan at 817-860-8140 or the undersigned at 817-860-8287.

Sincerely,

/RA/

Vivian H. Campbell, Chief
Nuclear Materials Safety Branch A

Docket: 030-38138
License: 25-29363-01

Enclosures:

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

cc w/enclosure:
Montana Radiation Control Program Director

Internal distribution via e-mail:

E. Collins, RA
 A. Howell, D:DNMS
 C. Cain, DD:DNMS
 J. Whitten, C:DNMS/NMSB-B
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RIV Materials Docket File
 DNMS Secretarial File

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	<input checked="" type="checkbox"/> Publicly Available		<input checked="" type="checkbox"/> Nonsensitive	
	<input type="checkbox"/> Nonpublicly Available		<input type="checkbox"/> Sensitive	
RIV:DNMS/NMSB-A	C:DNMS/NMSB-A			
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NOTICE OF VIOLATION

Helena Gravel and Sand, Inc.
& Blahnick Construction
Helena, Montana

Docket No: 030-38138
License No: 25-29363-01

During an initial inspection conducted on August 23, 2010, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

- A. 10 CFR 71.5(a) requires that a licensee who transports licensed material outside of the site of usage, as specified in the NRC license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, comply with the applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR Parts 107, 171-180, and 390-397.

49 CFR 177.817(a) requires, in part, that a person may not transport a hazardous material by highway unless that person has received a shipping paper prepared in accordance with Part 172 of this subchapter.

Contrary to the above, from June 4, 2010 until September 24, 2010, the licensee transported hazardous material by highway without a shipping paper prepared in accordance with Part 172. Specifically, the licensee transported radioactive material by highway to temporary job sites within Montana, and had not prepared shipping papers that described the hazardous material being transported.

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

Pursuant to the provisions of 10 CFR 2.201, Helena Gravel and Sand, Inc. and Blahnick Construction, is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, 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.

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, Washington, DC 20555-0001.

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 www.nrc.gov/reading-rm/pdr.html or 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).

In accordance with 10 CFR 19.11, you may be required to post this Notice within 2 working days.

Dated this 27th day of October 2010