

April, 11, 2011

EA-11-072

Mr. Jeffrey S. Elliott, P.E.
Vice President
TTL Associates, Inc.
44265 Plymouth Oaks Boulevard
Plymouth, Michigan 48170

SUBJECT: NRC INSPECTION REPORT NO. 030-33903/2011-001(DNMS) AND EXERCISE OF ENFORCEMENT DISCRETION – TTL ASSOCIATES, INC.

Dear Mr. Elliott:

On March 24, 2011, the U.S. Nuclear Regulatory Commission (NRC) conducted an inspection at your Plymouth, Michigan facility, with continued NRC in-office review through March 30, 2011. The in-office review was related to an evaluation of hazmat training related to U.S. Department of Transportation requirements. A telephone exit meeting between yourself and Andrew Bramnik of my staff was conducted on March 30, 2011, to discuss the inspection findings.

During this inspection, the NRC staff examined activities conducted under your license related to public health and safety. Additionally, the staff inspected your compliance with the conditions of your license as well as the Commission's rules and regulations. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, and interviews with personnel.

Based on the inspection, the NRC has determined that a violation of the NRC requirements occurred. The violation was evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violation involved the failure to apply for a license amendment by February 7, 2010, and amend your NRC license to include possession of radium-226. During this inspection, the inspector identified that you possessed five portable gauging devices not listed on your NRC license (No. 21-26666-01), each of which utilized a nominal 4.5 millicurie sealed source of radium-226 for measuring physical properties of materials.

The Energy Policy Act of 2005 (EPAAct) expanded the definition of byproduct material to include Naturally Occurring and Accelerator Produced Radioactive Materials (NARM) and placed the material under the NRC's jurisdiction. In accordance with the EPAAct, the NRC issued a waiver on August 31, 2005, allowing the continued use and possession of NARM while the NRC developed a regulatory framework for the regulation of the new byproduct material. On October 1, 2007, the NRC published a Federal Register Notice informing licensees of amendments to the NRC's regulation regarding the possession and use of NARM. On May 7, 2009, the NRC published a Notice of Waiver Termination for licensees in the State of Michigan, which stated, in part, that the NRC was terminating the waiver for persons possessing accelerator-produced radioactive material or discrete sources of radium-226 on August 7, 2009.

The Notice further stated that the final rule allowed an additional six month period from the effective date of the final rule to apply for a license amendment, i.e., February 7, 2010.

The NRC normally characterizes the possession of this type and quantity of radioactive material not authorized on an NRC license as a Severity Level IV violation in accordance with the NRC Enforcement Policy. As corrective actions, on April 1, 2011, you submitted a license amendment request to the NRC to include possession of radium-226.

Notwithstanding the issuance of the Federal Register Notice, it is recognized that some entities may not have been aware of the new regulatory requirements. After considering the information developed during the inspection, the NRC has determined to use enforcement discretion, in accordance with Enforcement Guidance Memorandum 09-004, to not issue a violation for failure to submit a license application on or before February 7, 2010, to include possession of radium-226. No additional violations of NRC requirements were identified.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken or planned to correct the violation and prevent recurrence is already adequately addressed on the docket in this letter. Therefore, you are not required to respond to this letter unless the description herein does not accurately reflect your position (pursuant to Title 10 of the Code of Federal Regulations (CFR) Section 2.201). In that case, or if you choose to provide additional information, you should clearly mark your response as a "Reply to an Exercise of Enforcement Discretion, EA-11-072" and send it to the Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with copies to (1) the Regional Administrator and the Enforcement Officer, Region III; and (2) the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter 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 website 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.

Sincerely,

/RA/

Tamara E. Bloomer, Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

Docket No.: 030-33903
License No.: 21-26666-01

cc: State of Michigan

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Sincerely,

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Tamara E. Bloomer, Chief
 Materials Inspection Branch
 Division of Nuclear Materials Safety

Docket No.: 030-33903
 License No.: 21-26666-01

cc: State of Michigan

Distribution:

See next page

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J. Elliott

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Letter to Jeffrey S. Elliott, P.E. from Tamara E. Bloomer, dated April 11, 2011.

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OF ENFORCEMENT DISCRETION – TTL ASSOCIATES, INC.

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