



UNITED STATES  
**NUCLEAR REGULATORY COMMISSION**  
REGION IV  
1600 EAST LAMAR BLVD  
ARLINGTON, TEXAS 76011-4511

February 6, 2012

EA 12-002

David W. Dobbs, P.E.  
City Engineer  
City of Great Falls  
Public Works Department  
P.O. Box 5021  
Great Falls, Montana 59403

SUBJECT: NRC INSPECTION REPORT 030-08794/11-01, EXERCISE OF ENFORCEMENT DISCRETION, AND NOTICE OF VIOLATION

Dear Mr. Dobbs:

This refers to the inspection conducted on August 30, 2011, at your office in Great Falls, Montana, with continued in-office review through January 5, 2012. This inspection was an examination of activities conducted under your license as they relate to public health and safety, compliance with the Commission's rules and regulations, and with the conditions of your license. Within these areas, the inspection consisted of selected examination of procedures and representative records, and interviews with personnel. A preliminary exit briefing was conducted with Mr. Rick Johnson, Radiation Safety Officer, on August 30, 2011. A final exit briefing was conducted telephonically with Mr. Johnson of your staff on January 13, 2012.

Based on the results of this inspection, the NRC has determined that two Severity Level IV violations of NRC requirements occurred. These violations were evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. These violations are cited in the enclosed Notice of Violation (Notice) because they were identified by the NRC. These violations involved the failure to: (1) have the one proper unique UN identification number on the shipping papers, and (2) use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee as required by 10 CFR 30.34(i). In accordance with the Enforcement Policy, although a violation of 10 CFR 30.34(i) is normally categorized at Severity Level III and considered for escalated enforcement action, because (1) one physical control existed to prevent loss or theft of the portable gauge; (2) you retained possession of the gauge; (3) the violation was isolated; and (4) no indication of programmatic weakness was identified, NRC is exercising enforcement discretion to categorize this violation as Severity Level IV.

City of Great Falls  
Public Works Department  
EA-12-002

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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, an excerpt from NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," is enclosed. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Notice. The NRC review of your response to the Notice will also 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, its enclosures, 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 NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy or proprietary, information so that it can be made available to the Public without redaction.

Should you have any questions concerning this inspection, please contact Ms. Rachel Browder at 817-200-1116 or me at 817-200-1130.

Sincerely,

/RA

G. Michael Vasquez, Chief  
Nuclear Materials Safety Branch A

Docket No. 030-08794  
License No. 25-15247-01

Enclosures:

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

cc w/Enclosure 1:  
Montana Radiation Control Program Director

City of Great Falls  
Public Works Department  
EA-12-002

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Internal distribution via e-mail:

E. Collins, RA  
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|--------------------------------------------------------|-----------------------------|-------------------------------------------------|------------------------------------------------------------------|------------------------------------|---------------------------------------------------|
| ADAMS                                                  | <input type="checkbox"/> No | <input checked="" type="checkbox"/> Yes         | <input checked="" type="checkbox"/> <b>SUNSI Review Complete</b> |                                    | Reviewer Initials: RSB                            |
| <input checked="" type="checkbox"/> Publicly Available |                             | <input type="checkbox"/> Non-publicly Available |                                                                  | <input type="checkbox"/> Sensitive | <input checked="" type="checkbox"/> Non-sensitive |
| Category – <b>KEYWORD:</b>                             |                             | EA-09-XXX, LICENSEE, ACTION                     |                                                                  |                                    |                                                   |
| RIV:NMSB-A                                             | NMSB-A                      | ACES                                            | ACES:BC                                                          | C:NMSB-A                           |                                                   |
| RSBrowder                                              | ADGaines                    | MCMaier                                         | HGepford                                                         | GMVasquez                          |                                                   |
| /RA/                                                   | /RA/                        | /RA/ w/changes                                  | /RA/                                                             | /RA/                               |                                                   |
| 01/04/12                                               | 01/05/12                    | 01/ 25/12                                       | 01/25/12                                                         | 02/04/12                           |                                                   |

OFFICIAL RECORD COPY

T=Telephone

E=E-mail

F=Fax

## NOTICE OF VIOLATION

City of Great Falls  
Public Works Department  
Great Falls, Montana

Docket: 030-08794  
License: 25-15247-01  
EA-12-002

During an NRC inspection conducted on August 30, 2011, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 30.34(i) requires that each portable gauge licensee shall use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

Contrary to the above, on August 30, 2011, the licensee failed to use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever the gauges were not under the control and constant surveillance of the licensee. Specifically, the three gauges were locked in their transport containers and secured with only one independent control while they were stored at the facility located at 1025 25<sup>th</sup> Avenue, North East, Great Falls, Montana. The independent control was the locked door to the storage room within the licensee's main office facility.

This is a Severity Level IV violation (EGM 11-004).

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

49 CFR 172.200(a) requires, in part, that each person who offers a hazardous material for transportation shall describe the hazardous material on the shipping paper in the manner required by this subpart. Pursuant to 49 CFR 172.101, radioactive material is classified as hazardous material.

49 CFR 172.202(a)(1) requires that the shipping description of a hazardous material on the shipping paper must include the identification number prescribed for the material as shown in Column (4) of the 49 CFR 172.101 table.

49 CFR 172.101, "Hazardous Materials Table," Column 4, lists identification number UN3332 for hazardous material described as radioactive material, Type A package, special form *non fissile or fissile-excepted*.

Contrary to the above, as of August 30, 2011, the licensee offered multiple shipments of hazardous material for transport and failed to include the identification number prescribed for the material, shown in Column 4 of 49 CFR 172.101, "Hazardous Materials Table." Specifically, the shipping papers that accompanied each shipment of radioactive material included two identification numbers other than the appropriate identification number for radioactive material, Type A package, special form *non fissile or fissile-excepted*, UN3332.

This is a Severity Level IV violation (Section 6.8)

ENCLOSURE 1

Pursuant to the provisions of 10 CFR 2.201, the City of Great Falls is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555, with a copy to the Regional Administrator, Region IV, 1600 E. Lamar Blvd., Arlington, Texas 76011-4125, 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, EA-12-002" 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, 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, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Management System (ADAMS), accessible from the NRC Web site at [www.nrc.gov/reading-rm/adams.html](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 publically available 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 may be required to post this Notice within 2 working days of receipt.

Dated this 6<sup>th</sup> day of February 2012