

August 16, 2012

Mr. Mitch Forst, P.E.
Radiation Safety Officer
Construction Consulting and Testing
700 South River Road
Waterville, Ohio 43566

SUBJECT: NRC ROUTINE INSPECTION REPORT 03035974/12001(DNMS) AND NOTICE OF VIOLATION – CONSTRUCTION CONSULTING AND TESTING

Dear Mr. Forst:

On July 17 and 19, 2012, a U.S. Nuclear Regulatory Commission (NRC) inspector conducted a routine inspection at your facilities in Waterville, Ohio, and Sterling Heights, Michigan. The purpose of the inspection was to review activities conducted under your license to ensure that those activities were being performed in accordance with NRC requirements. The inspector presented the findings from the inspection to you on July 19, 2012.

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

Based on the results of this inspection, the NRC has determined that two Severity Level IV violations of NRC requirements occurred. The violations were evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The first violation concerned the licensee's failure to confine possession, use, and storage of byproduct materials to the locations and purposes authorized by the license. The root cause of this violation was the licensee's misunderstanding of the requirements of its license. As a corrective action, the licensee submitted a license amendment, dated August 3, 2012, to request the addition of the Sterling Heights facility as an authorized location of use. The second violation concerned the licensee's failure to ensure that each of its employees transporting radioactive materials have received recurrent hazmat training at least once every three years, as required by Title 49 of the Code of Federal Regulations (CFR) 172.704(c)(2). The root cause of this violation was the licensee's lack of awareness of the requirement for recurrent training. As a short-term corrective action, the licensee committed to obtaining DOT refresher training for the radiation safety officer who in turn will train the individual gauge users. As a long-term corrective action for this violation, the licensee will discuss DOT requirements each year during its annual radiation safety refresher training. The inspector identified both of these violations during the inspection, and as a result, the NRC is citing the violations in the enclosed Notice of Violation (the Notice).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance will be achieved is already adequately addressed on the docket in this letter. However, you are required to confirm, in writing, that the NRC's understanding of the root causes of the violations and the corrective actions taken or planned is indeed accurate. Please follow the instructions in the enclosed Notice to submit your written confirmation.

Based on the results of this inspection, the NRC has also determined that one additional Severity Level IV violation of NRC requirements occurred. This violation is being treated as a Non-Cited Violation (NCV), consistent with Section 2.3.2 of the Enforcement Policy, because the licensee identified the violation, the licensee corrected the violation, the violation was not repetitive, and the violation was not willful. The NCV involved the licensee's failure to conduct a periodic (at least annual) review of its radiation protection program, as required by 10 CFR 20.1101(c), between 2008 and 2010. The root cause of the violation was an oversight on the part of the licensee. As corrective actions, the licensee completed annual reviews of its radiation protection program since 2010 and has implemented calendar reminders to ensure continued compliance.

If you contest the violation or significance of the NCV, you should provide a response within 30 days of the date of this letter, with the basis for your denial, to the Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington DC 20555-0001, with copies to: (1) the Regional Administrator, Region III and (2) the Director, Office of Enforcement, United States 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, its enclosure, and 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 website 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.

M. Forst

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If you have any questions regarding this inspection, please feel free to contact Mr. Aaron McCraw of my staff. You can reach Mr. McCraw at 630-829-9650.

Sincerely,

/RA/

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

Docket No. 030-35974
License No. 34-26746-03

Enclosure:
Notice of Violation

cc w/encl: State of Michigan
State of Ohio

M. Forst

-3-

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

Docket No. 030-35974
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Enclosure:
Notice of Violation

cc w/encl: State of Michigan
State of Ohio

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DATE	8/16/12		8/16/12				

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NOTICE OF VIOLATION

Construction Consulting & Testing
Waterville, Ohio

Docket No. 030-35974
License No. 34-26746-03

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted July 17 and 19, 2012, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. Title 10 CFR 30.34(c) requires, in part, that confine the possession and use of byproduct material to the locations and purposes authorized in the license.

Contrary to the above, on July 19, 2012, the licensee was storing byproduct material at a location not authorized in the license. Specifically, the licensee was storing two Troxler 3400 Series portable moisture density gauges at a field office in Sterling Heights, Michigan, that was not authorized in the license.

This is a Severity Level IV violation (Section 6.3.d.4).

- B. Title 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 170 through 189.

Title 49 CFR 172.702 requires that each hazmat employer ensure that each hazmat employee is trained and tested, and that no hazmat employee performs any function subject to the requirements of 49 CFR Parts 171-177 unless trained, in accordance with Subpart H of 49 CFR Part 172. The terms Hazmat Employer and Hazmat Employee are defined in 49 CFR 171.8.

Title 49 CFR 172.704(a) specifies the elements of hazmat employee training as: (1) general awareness/familiarization training; (2) function-specific training; and (3) safety training. Title 49 CFR 172.704(c)(2) requires, in part, that a hazmat employee receive initial training, and recurrent training at least once every three years.

Contrary to the above, as of July 17, 2012, the licensee did not provide training for its hazmat employees that satisfied the requirements in Subpart H to 49 CFR Part 172, in that recurrent training had not been completed at least once every three years for all of its employees who transport hazardous materials, and the licensee otherwise meets the definition of a hazmat employer in 49 CFR 171.8.

This is a Severity Level IV violation (Section 6.3.d).

Pursuant to the provisions of 10 CFR 2.201, Construction Consulting & Testing 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 III, 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 a confirmation that the NRC's understanding of the circumstances, causes, and corrective actions for

Enclosure

the violations listed above are accurate. 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.

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

Dated this 16th day of August 2012.