



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION IV
1600 E. LAMAR BLVD.
ARLINGTON, TX 76011-4511

December 3, 2015

EA-15-138

Mr. Jerry Bullard, President
Goodwell, Inc.
1319 Energy Street
Gillette, WY 82716

SUBJECT: NOTICE OF VIOLATION AND NRC INSPECTION REPORT
030-06812/2015-001

Dear Mr. Bullard:

This refers to the routine, unannounced inspection conducted on April 14-16, 2015, at your facilities in Upton and Gillette, Wyoming, with continued in-office review and an exit meeting conducted telephonically with Jessica Hall of your staff on August 12, 2015. A report detailing the inspection results that included 11 apparent violations was issued on September 25, 2015 (ML15265A617).

On October 22, 2015, a predecisional enforcement conference was conducted in Gillette, Wyoming, to discuss the apparent violations, their significance and root causes, and your corrective actions. During the conference, we discussed the apparent violations described in the subject inspection report, and your staff acknowledged that at the time of the inspection, your radiation safety program had not received the time and attention that was needed to ensure compliance with U.S. Nuclear Regulatory Commission (NRC) requirements. Your staff agreed that 10 of the 11 apparent violations occurred, provided information that would indicate one of the apparent violations was not valid, and described corrective actions that have been taken or are planned to provide increased management oversight with respect to the radiation safety program, as discussed below.

Based on the information developed during the inspection and that you and your staff provided during the conference, the NRC has determined that 10 violations of NRC requirements occurred. The violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the Notice. During the conference, personnel training documents were provided by your staff that included copies of written tests and annual safety reviews which the NRC determined were sufficient to demonstrate that the requirements of Title 10 of the *Code of Federal Regulations* (CFR) 39.61(d) were met. Therefore, no violation of NRC requirements for that section is cited in the enclosed Notice.

The most significant violations involved the failure to secure materials from unauthorized access and keep them locked and physically secured. Specifically, a one curie cesium-137 sealed source was not locked or secured since at least August 2012, and the shop area in which it was stored did not prevent unauthorized access to the material. The NRC considers these violations

significant because its security requirements, if implemented, provide reasonable assurance that licensed materials will be secured from unauthorized access or theft. Because all 10 violations stem from a similar root cause of inadequate management oversight, they have been categorized as a Severity Level III problem, in accordance with the NRC Enforcement Policy, which may be found on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$7,000 is considered for a Severity Level III problem. 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 in Section 2.3.4 of the Enforcement Policy. Based on your prompt and comprehensive corrective actions, which included securing, locking, inventorying, and leak testing your sealed sources; implementing equipment maintenance procedures; and ensuring that the radiation protection program documentation is being kept up-to-date, the NRC has determined that *Corrective Action* credit is warranted.

Your staff stated, during the conference, that several long-term actions will be taken to ensure there is additional management oversight with respect to the radiation safety program. These actions include selecting an alternate radiation safety officer to help ensure requirements are met, implementing an electronic task scheduling system, having a senior manager review annual audits, and incorporating these actions into the radiation safety program implementing procedures.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III problem constitutes an escalated enforcement action that may subject you to increased inspection effort.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. If you have additional information that you believe the NRC should consider, you may provide it in your response. The NRC will use the information provided in your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

Significant enforcement actions, including escalated enforcement actions, are found on the NRC's Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>. Additionally, in accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter, its enclosure, and your response will be made available electronically for the public in the Public Document Room and in NRC's Agencywide Documents Access and Management System (ADAMS), found at the NRC Web site <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. If personal privacy or proprietary information is necessary to provide an acceptable response, 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 information, you must specifically identify the portions of your response that you seek to have withheld and

J. Bullard

- 3 -

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).

Should you have any questions concerning this letter or the enclosed report, please contact Ms. Brooke Smith, Acting Chief, Nuclear Materials Safety Branch A, at 817-200-1456.

Sincerely,

/RA/

Marc L. Dapas
Regional Administrator

Docket No. 030-06812
License No. 49-12994-01

Enclosure:
Notice of Violation (Notice)

cc: Scott Ramsay
Radiological Services Manager
5500 Bishop Blvd.
Cheyenne, WY 82002

J. Bullard

- 3 -

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Sincerely,

Marc L. Dapas
Regional Administrator

Docket No. 030-06812
License No. 49-12994-01

Enclosure:
Notice of Violation (Notice)

cc: Scott Ramsay
Radiological Services Manager
5500 Bishop Blvd.
Cheyenne, WY 82002

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ADAMS ACCESSION NUMBER: ML15314A879

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NOTICE OF VIOLATION

Goodwell, Inc.
Gillette, Wyoming and
Upton, Wyoming

Docket No. 030-06812
License No. 49-12994-01
EA-15-138

During an NRC inspection conducted on April 14-16, 2015, 10 violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- (1) Title 10 CFR 20.1801 requires that the licensee shall secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas.

Contrary to the above, from August 14, 2012 to April 21, 2015, the licensee failed to secure from unauthorized removal or access licensed materials that were stored in an unrestricted area. Specifically, the licensee stored an approximate one curie cesium-137 source in an interior down-hole storage location without locking the building or the down-hole access cover when the licensed material was kept in storage.

- (2) Title 10 CFR 39.31(b) requires, in part, that the licensee store each source containing licensed material in a storage container that must be locked and physically secured to prevent tampering or removal of licensed material by unauthorized personnel.

Contrary to the above, from August 14, 2012 to April 21, 2015, the licensee failed to ensure that licensed material was in a storage container that was locked and physically secured so as to prevent tampering or removal of licensed material by unauthorized personnel. Specifically, an approximate one curie cesium-137 source was not locked in a container while in storage in an interior down-hole storage location.

- (3) License Condition 16.A of license number 49-12994-01 requires, in part, that the licensee conduct its program in accordance with the program description in its license application dated March 21, 2013. Section B.2.1 of the application describes two exterior down-hole storage facilities, one in Gillette, Wyoming, and one in Upton, Wyoming, as listed on the license.

Contrary to the above, since March 21, 2013, the licensee failed to conduct its program in accordance with the program description in its license application dated March 21, 2013. Specifically, the licensee used a third down-hole storage area inside its Upton, Wyoming field office that was not described in its license application.

- (4) Title 10 CFR 39.37 requires, in part, that each licensee conduct a semi-annual physical inventory to account for all licensed material received and possessed under the license. The licensee shall retain records of the inventory for three years, and the record must indicate the quantity and kind of licensed material, the location of the licensed material, the date of the inventory, and the name of the individual conducting the inventory.

Contrary to the above, from August 14, 2012 to April 16, 2015, the licensee failed to conduct semi-annual physical inventories to account for all licensed material received and possessed under the license. Specifically, the licensee did not conduct semi-annual physical inventories and could not account for the specific location of each sealed source since at least August 14, 2012.

Enclosure

- (5) License Condition 15.A of license number 49-12994-01, requires, in part, that no sealed source shall be stored for a period of more than 10 years without being tested for leakage and/or contamination.

Contrary to the above, from September 14, 2004 to April 16, 2015, the licensee stored sealed sources for a period that exceeded 10 years without testing for leakage and/or contamination. Specifically, two sealed sources (2 millicurie cesium-137 serial number B074 and 2 curie cesium-137 serial A981) were last tested for leakage and/or contamination on September 14, 2004, a period in excess of 10 years.

- (6) Title 10 CFR 39.15(a) requires, in part, that a licensee perform well logging with a sealed source only after the licensee has a written agreement with the employing well owner or operator. The written agreement must identify who will meet the requirements specified in the regulation.

Contrary to the above, between August 14, 2012 and April 16, 2015, the licensee's written agreement with employing well owners or operators did not identify who would meet certain requirements specified in the regulation. Specifically, the licensee did not identify who will meet the following requirements: (1) that a person may not attempt to recover the sealed source in a manner which, in the licensee's opinion, could result in its rupture; (2) that the radiation monitoring required by 10 CFR 39.69(a) will be performed; (3) that if the environment, equipment, or personnel are contaminated they must be decontaminated before release for unrestricted use; and (4) that if the source is classified as irretrievable, the requirements specified in Title 10 CFR 39.15(a)(5)(i)-(iii) must be implemented within 30 days.

- (7) Title 10 CFR 39.43(b) requires, in part, that each licensee have a program for semiannual visual inspection and routine maintenance of source holders, logging tools, source handling tools, storage containers, and transport containers to ensure that the required labeling is legible and that no physical damage is visible.

License Condition 16.A of license number 49-12994-01 requires, in part, that the licensee conduct its program in accordance with the program description in its license application dated March 21, 2013. Section F.4.0 of the license application dated March 21, 2013, provides the procedure to be used by the licensee to perform the semiannual visual inspection and maintenance.

Contrary to the above, between August 14, 2012 and April 16, 2015, the licensee failed to implement its program for semiannual visual inspection and routine maintenance of source holders, logging tools, source handling tools, storage containers, and transport containers to ensure that required labeling is legible and no physical damage is visible. Specifically, the licensee had not implemented any semiannual visual inspection and routine maintenance in accordance with the procedure in Section F.4.0 of the license application.

- (8) License Condition 16.A of license number 49-12994-01 requires, in part, that the licensee conduct its program in accordance with the program description in its license application dated March 21, 2013. Section E.7.0 of the licensee's license application dated March 21, 2013, states that each logging supervisor and logging assistant will have their job performance evaluated at intervals not to exceed 12 months and that the evaluation will be performed by the Radiation Safety Officer.

Contrary to the above, from August 14, 2012 to April 15, 2015, at least six job performance evaluations were performed by an individual that was not the Radiation Safety Officer. Specifically, on at least six occasions, job performance evaluations of logging supervisors and logging assistants were performed by a logging supervisor rather than the Radiation Safety Officer.

- (9) License Condition 16.A of license number 49-12994-01 requires, in part, that the licensee conduct its program in accordance with the program description in its license application dated March 21, 2013. Section B.2.1 of the license application dated March 21, 2013, describes both of the licensee's radioactive materials storage areas as being surrounded by an 8 foot high chain-link fence topped with barbed wire.

Contrary to the above, from March 21, 2013 to April 19, 2015, the licensee's radioactive materials storage areas were not surrounded by 8 foot high chain-link fences topped with barbed wire. Specifically, the chain-link fences surrounding the storage areas were less than 8 foot tall and were not topped with barbed wire.

- (10) Title 10 CFR 39.73 requires, in part, that each licensee maintain specified documents and records at each of its field stations. These required records include: (1) radiation survey instrument calibrations required by 10 CFR 39.33; (2) records of leak test results required by 10 CFR 39.35; (3) physical inventory records required by 10 CFR 39.37; (4) utilization records required by 10 CFR 39.39; (5) records of inspection and maintenance required by 10 CFR 39.43; (6) training records required by 39.61(d); and (7) survey records required by 10 CFR 39.67.

Contrary to the above, from August 14, 2012 until end of August, 2015, the licensee failed to maintain the required documents and records at its field station. Specifically, the following records were not maintained at the licensee's Upton, Wyoming field station: (1) radiation survey instrument calibrations required by 10 CFR 39.33; (2) leak test results required by 10 CFR 39.35; (3) physical inventory records required by 10 CFR 39.37; (4) utilization records required by 10 CFR 39.39; (5) records of inspection and maintenance required by 10 CFR 39.43; (6) training records required by 39.61(d); and (7) survey records required by 10 CFR 39.67.

These violations have been categorized together as a Severity Level III problem, in accordance with the NRC's Enforcement Policy.

Pursuant to the provisions of 10 CFR 2.201, Goodwell Inc. 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; EA-15-138" 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 requiring information 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.

Your response will be made available electronically for public inspection in the NRC Public Document Room or in 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>. 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. 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. If Classified Information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR Part 95.

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

Dated this third day of December, 2015