



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

January 11, 2016

EA-15-198

Mr. Kevin Engelmeier
Radiation Safety Officer
NewFields Mining Design
and Technical Services
225 Silver Street, Suite 100
Elko, NV 59801

SUBJECT: NRC INSPECTION REPORT 030-38817/2015-001; NOTICE OF VIOLATION; AND EXERCISE OF ENFORCEMENT DISCRETION

Dear Mr. Engelmeier:

This letter refers to the routine, announced inspection conducted on September 1, 2015, at your worksite located at the Barrick Golden Sunlight Mines outside Whitehall, Montana, with continued in-office review through January 5, 2016. This inspection examined activities conducted under your license as they relate to public health and safety, and to confirm compliance with the U.S. Nuclear Regulatory Commission's (NRC) rules and regulations, and with the conditions of your license. Within these areas, the inspection consisted of a selected examination of procedures and representative records, observations of activities, independent radiation measurements, and interviews with personnel. On September 1, 2015, at the conclusion of the onsite portion of the inspection, the inspectors discussed the preliminary inspection findings with your on site employee, and on September 11, 2015, an inspector and a member of NRC management discussed the preliminary inspection findings telephonically with you. A final exit briefing was conducted telephonically with you on January 5, 2016.

Based on the results of this inspection, the NRC has determined that one Severity Level IV violation of NRC requirements was identified. The violation was evaluated in accordance with the NRC Enforcement Policy, which is found at the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violation concerned the failure to use two independent physical controls that formed tangible barriers to secure a portable gauge from unauthorized removal while not under control and constant surveillance as required by Title 10 of the *Code of Federal Regulations* (CFR) 30.34(i). Specifically, the inspectors observed a portable gauge in a locked shipping container secured to the bed of a licensee pickup truck with one chain, and the gauge case was secured shut with one padlock. The gauge user was inside a work trailer located near the vehicle. This violation is being cited in the enclosed Notice of Violation (Notice) because it was identified by the NRC during the inspection.

In accordance with the Enforcement Policy, such violations are normally categorized at Severity Level III and considered for escalated enforcement action. However, the NRC is exercising enforcement discretion to categorize the violation at Severity Level IV based on the following: (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 identified.

The NRC has concluded that information regarding: (1) the reason for the violation; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance will be (was) achieved is already adequately addressed on the docket in your letter dated November 9, 2015. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

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, if you choose to provide one, 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 or proprietary information so that it can be made available to the public without redaction.

If you have any questions concerning this matter, please contact Marti Poston of my staff at 817-200-1181.

Sincerely,

/RA/

Brooke G. Smith, Acting Chief
Nuclear Materials Safety Branch A

Docket No: 030-38817
License No: 27-35220-01

Enclosure:
Notice of Violation

cc: State of Montana Radiation Control Program Director
State of Nevada Radiation Control Program Director

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The NRC has concluded that information regarding: (1) the reason for the violation; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance will be (was) achieved is already adequately addressed on the docket in your letter dated November 9, 2015. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

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Sincerely,

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Brooke G. Smith, Acting Chief
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Enclosure:
Notice of Violation

cc: see next page
Distribution: See next page

ADAMS ACCESSION NUMBER: ML153555A553

<input checked="" type="checkbox"/> SUNSI Review By: JEV		ADAMS <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		<input checked="" type="checkbox"/> Publicly Available <input type="checkbox"/> Non-Publicly Available		<input checked="" type="checkbox"/> Non-Sensitive <input type="checkbox"/> Sensitive		Keyword:
OFFICE	RIV:NMSB-A	RIV:NMSB-A	RIV:ACES	RIV:C:NMSB-A				
NAME	JEvonEhr	MRPoston	MCHay	BGSmith				
SIGNATURE	/RA/	/RA/	/RA by CCMaier Acting For/	/RA/				
DATE	12/22/15	12/22/15	01/07/16	01/11/16				

OFFICIAL RECORD COPY

Letter to Kevin Engelmeier from Brooke G. Smith dated 11 January 2016

SUBJECT: NRC INSPECTION REPORT 030-38817/2015-001; NOTICE OF VIOLATION; AND
EXERCISE OF ENFORCEMENT DISCRETION

cc: State of Montana Radiation Control Program Director
State of Nevada Radiation Control Program Director

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NOTICE OF VIOLATION

NewFields Mining Design and Technical Services
Elko, Nevada

Docket No: 030-38817
License No: 27-35220-01
EA-15-198

During a NRC inspection conducted on September 1, 2015, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

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 September 1, 2015, the licensee failed to use a minimum of two independent physical controls that form tangible barriers to secure a portable gauge from unauthorized removal whenever the portable gauge is not under the control and constant surveillance of the licensee. Specifically, the licensee used only one independent physical control to secure a portable gauge in a licensee vehicle parked at the Barrick Golden Sunlight Mines and the gauge was not under the control and constant surveillance of the licensee.

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

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance (was) achieved, is already adequately addressed on the docket in the letter from New Fields Mining Design and Technical Services dated November 9, 2015. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, (EA-15-198)," and send it 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).

If you choose to respond, 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>. Therefore, to the extent possible, the response should not include any personal privacy or proprietary information so that it can be made available to the Public without redaction.

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

Dated this 11 of January 2016

Enclosure