



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

February 1, 2016

Mr. Curtis Thompson
Radiation Safety Officer
DJ&A, P.C.
3203 Russell Street
Missoula, Montana 59801

SUBJECT: NRC INSPECTION REPORT 030-35714/2015-001 AND NOTICE OF VIOLATION

Dear Mr. Thompson:

This letter refers to the routine, unannounced inspection conducted on June 15, 2015, at your main office in Missoula, Montana, with continued in-office review through January 27, 2016. The 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, and interviews with personnel. A final telephonic exit briefing was conducted with you on January 29, 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 can be found at the NRC's web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violation involved the failure to obtain prior written consent of the Commission before transferring the right to possess and use byproduct material under NRC license number 25-23491-02 as required by Title 10 *Code of Federal Regulations* (10 CFR) 30.34(b). The violation is being cited in the enclosed Notice of Violation (Notice) because it was identified by the NRC during the inspection.

You are required to respond to this letter and must follow the instructions specified in the enclosed Notice when preparing your response. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful. You can find the Information Notice on the NRC's web site at <http://pbadupws.nrc.gov/docs/ML0612/ML061240509.pdf>. 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 will be (was) achieved should be addressed. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

C. Thompson

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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 public inspection in the NRC Public Document Room or in the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's 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 Jason C. Dykert at 817-200-1427

Sincerely,

/RA/

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

Docket: 030-35714
License: 25-23491-02

Enclosure:
Notice of Violation

cc: Montana Radiation Control Program Director

C. Thompson

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cc: Montana Radiation Control Program Director

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ADAMS ACCESSION NUMBER: ML16028A492

<input checked="" type="checkbox"/> SUNSI Review By: JCD		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/DNMS	C:NMSB-A				
NAME	JCDykert	BGSmith				
SIGNATURE	/RA/	/RA/				
DATE	1/29/2016	02/01/16				

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NOTICE OF VIOLATION

DJ&A, P.C.
Missoula, Montana

Docket: 030-35714
License: 25-23491-02

During an NRC inspection conducted on June 15, 2015, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 30.34(b) requires, in part, that the Commission give its consent in writing before any right under a license is transferred or assigned.

Contrary to the above, from May 6, 2015 to October 27, 2015, DJ&A, P.C. transferred rights under their NRC license to possess and use a Troxler 3430 Portable Surface Moisture and Density Gauge containing 9 millicuries of Cs-137 and 44 millicuries of Am-241:Be to the County of Missoula Public Works Department, a non-licensed entity, without prior written consent of the Commission.

This is a Severity Level IV violation. (Enforcement Policy Example 6.3.d.9)

Pursuant to the provisions of 10 CFR 2.201, DJ&A, P.C., 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, 1600 E. Lamar Blvd., Arlington, Texas 76011, 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 NRC Inspection Report 030-35714/2015-001;" and should include for the 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 to avoid further violations, and (4) the date when full compliance was 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.

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 www.nrc.gov/reading-rm/pdr.html or 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

Enclosure

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(a)(4), you may be required to post this Notice within two working days.

Dated this 1st day of February 2016