



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**

REGION III  
2443 WARRENVILLE RD. SUITE 210  
LISLE, IL 60532-4352

September 23, 2016

Mr. Mark Behrens, Principal/Owner  
Terra Site Development, Inc.  
1307 West 161st Street  
Westfield, IN 46074

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 03038010/2016001(DNMS) AND  
NOTICE OF VIOLATION – TERRA SITE DEVELOPMENT, INC.

Dear Mr. Behrens:

On July 22 and 23, 2015, an inspector from the U.S. Nuclear Regulatory Commission (NRC) started a previous inspection at your base facility in Westfield, Indiana. We planned to complete that inspection at another location in 2015; however, due to an oversight in planning, we did not complete that inspection. We apologize for any inconvenience that may have been caused as a result of us not completing that inspection.

On July 14, 2016, an inspector from the NRC conducted a routine inspection at your Westfield, Indiana facility, with continued in-office review through September 2, 2016. The purpose of the inspection was to review activities performed under your NRC license to ensure that activities were being performed in accordance with NRC requirements. The in-office review included a review of information that was unavailable during the onsite inspection including, in part, leak test records and dosimetry badge records. Mr. Robert Gattone of my staff conducted a final exit meeting by telephone with you and Mr. Michael Byrnes of your staff on September 2, 2016, to discuss the inspection findings. This letter presents the results of the inspection.

During this inspection, the NRC staff examined activities conducted under your license related to public health and safety. Additionally, the staff 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 four 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 violations concerned the licensee's failure to: (1) conduct timely initial hazmat training, as required by Title 10 of the Code of Federal Regulations (CFR) Section 71.5 and 49 CFR 172.704(c)(2)(ii); (2) record current hazmat training as required by 10 CFR 71.5 and 49 CFR 172.704(d);

(3) ensure that each hazmat employee is tested on hazmat training subjects as required by 10 CFR 71.5 and 49 CFR 172.702(d); and (4) test sealed sources for leakage and/or contamination at 12 month intervals as required by Condition 14.A. of Amendment No. 1 of NRC License No. 13-32741-01. The violations are cited in the enclosed Notice of Violation (Notice). The NRC is citing the violations in the enclosed Notice because the inspector identified them.

The inspector determined that the root cause of the three hazmat training violations was that the licensee was unaware of the requirements. The inspector determined that the root cause of one example of the leak test violation involving failure to send the leak test sample for analysis was licensee oversight. The inspector determined that the root cause of the other example of the leak test violation involving failure to do a timely leak test was because the licensee was unaware that the Troxler Model 3440 gauge leak test frequency was 12 months. As corrective actions to restore compliance and to prevent recurrence of similar violations, the licensee: (1) updated its Corporate Calendar to provide reminders to applicable staff to ensure that the licensee provides timely, initial hazmat training as required; (2) updated its Corporate Calendar to provide reminders to applicable staff, and committed to use an online hazmat training/certification site to ensure that the licensee records hazmat training as required; (3) updated its Corporate Calendar to provide reminders to applicable staff, and committed to use an online hazmat training/certification site to ensure that each hazmat employee is tested on hazmat training subjects as required; and (4) updated its Corporate Calendar to provide reminders to applicable staff to ensure that the licensee provides timely leak tests of the gauges.

The NRC has concluded that information regarding the reasons for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance was or will be achieved is already adequately addressed on the docket in this letter. Therefore, you are not required to respond to this letter unless the description herein 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 "Rules of Practice," a copy of this letter, its enclosure, and your response, if you provide one, will be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's website 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 publicly available without redaction.

M. Behrens

-3-

Please feel free to contact Mr. Gattone if you have any questions regarding this inspection. Mr. Gattone can be reached at 630-829-9823.

Sincerely,

*/RA/*

Aaron T. McCraw, Chief  
Materials Inspection Branch  
Division of Nuclear Materials Safety

Docket No. 030-38010  
License No. 13-32741-01

Enclosure:  
Notice of Violation

cc w/encl: Michael Byrnes, Radiation Safety Officer  
State of Indiana

M. Behrens

-3-

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Sincerely,

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Aaron T. McCraw, Chief  
Materials Inspection Branch  
Division of Nuclear Materials Safety

Docket No. 030-38010  
License No. 13-32741-01

Enclosure:  
Notice of Violation

cc (w/encl): Michael Byrnes, Radiation Safety Officer  
State of Indiana

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NAME	RGattone:ps AMcCraw for		AMcCraw					
DATE	9/23/2016		9/23/2016					

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## NOTICE OF VIOLATION

Terra Site Development, Inc.  
Westfield, Indiana

License No. 13-32741-01  
Docket No. 030-38010

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on July 14, 2016, with continued in-office review through September 2, 2016, four violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

A. Title 10 of the *Code of Federal Regulations* (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 107, 171-180, and 390-397.

1. Title 49 CFR 172.704(c) requires, in part, that a new hazmat employee receive initial hazmat training within 90 days after employment.

Contrary to the above, in June 2011, a new hazmat employee was hired by the licensee and the licensee provided initial hazmat training for that employee on January 12, 2013, a period of more than 90 days after the employee was hired. The licensee meets the definition of hazmat employer in 49 CFR 171.8.

2. Title 49 CFR 172.704(d) requires, in part, that a record of current hazmat training, inclusive of the preceding three years, shall be created and retained by each hazmat employer for as long as the employee is a hazmat employee and 90 days thereafter.

Contrary to the above, on January 12, 2013, the licensee provided initial hazmat training for a new hazmat employee and did not create a record of that training.

3. Title 49 CFR 172.702(d) requires, in part, that a hazmat employer shall ensure that each of its hazmat employees is tested by appropriate means on the hazmat employee training subjects covered in 10 CFR 172.704.

Contrary to the above, on January 12, 2013, the licensee provided initial hazmat training for a new hazmat employee and did not test the employee on the hazmat employee training subjects covered in 10 CFR 172.704.

This is a Severity Level IV problem (Section 6.8.).

- B. Condition 14.A. of Amendment No. 1 of NRC License No. 13-32741-01 requires that sealed sources shall be tested for leakage and/or contamination at intervals not to exceed the intervals specified in the certificate of registration issued by the NRC under 10 CFR 32.210 or by an Agreement State. The certificate of registration issued by an Agreement State for the Troxler Model 3440 gauge states that the leak test frequency is 12 months.

Contrary to the above, the licensee did not complete the leak test on its Troxler Model 3440 gauge in 2014 and subsequently conducted a leak test on April 8, 2015, a period of more than 12 months. In addition, after the leak test was done on April 8, 2015, the licensee subsequently conducted a leak test on August 8, 2016, a period of more than 12 months.

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

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 was or will be achieved is already adequately addressed on the docket in the letter transmitting this Notice. 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, IR 03038010/2016001(DNMS)" 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 III, within 30 days of the date of the letter transmitting this Notice.

If you respond, your response may be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's website 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 publicly available without redaction.

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 23<sup>rd</sup> day of September, 2016.