

Lehigh Cement Company LLC

Mitchell Plant
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October 20, 2016

Mr. John B. Giessner, Director
Division of Nuclear Materials Safety
United States Nuclear Regulatory Commission
Region III
2443 Warrenville Road, Suite 210
Lisle, IL 60532-4352

Subject: Response to the Apparent Violation in NRC Inspection Report No. 03034344/2016001(DNMS); EA-16-153

Dear Mr. Giessner:

This document is in response to the apparent violation concerning the licensee's failure to ensure that the individual, who is named as the licensee's Radiation Safety Officer (RSO) in Condition 11 of Amendment No. 05 of the NRC License 13-26779-01, performed the duties and functions of RSO during the U.S. Nuclear Regulatory Commission (NRC) Special Investigation conducted on July 13, 2016. Below are: (i) review of the circumstances leading to the apparent violation; (ii) reason for the apparent violation (root cause); (iii) corrective actions completed to date; and (iv) corrective actions to be completed by December 31, 2016 for full compliance. We respectfully request that the NRC classify the violation as Severity Level IV with no civil penalty assessed.

- I. **Review of the circumstances leading to the apparent violation**
 - a. On November 13, 2014 the Safety Manager Tyler Kalber, named as the RSO on License 13-26779-01 Amendment No. 05, left the employ of the company.
 - b. During the exit process for Mr. Kalber, the duties and responsibilities for the Radiation Safety Program were not transferred to a responsible party.
 - c. From November 13, 2014 until June 3, 2016 the named individual as the RSO on the license, Tyler Kalber, was not acting as the RSO.

- II. **Reason for the apparent violation (Root Cause)**
 - a. Procedures did not sufficiently address the loss of the RSO and the required notifications and timeframe for submitting change documentation.

- b. The Mitchell Plant experienced a high turnover of key management positions in a relatively short amount of time. Key positions included:
 - i. Plant Manager
 - ii. Production Manager
 - iii. Safety Manager
 - iv. Electrical Department SupervisorAll positions are currently filled by the facility HR department.
- c. The cause of the apparent violation seems to be a prior lack of strict oversight due to high turnover of key positions, as opposed to any willful action on the part of the licensee.

III. Corrective actions completed to date

- a. Clayton Vandersall, previously qualified as RSO in Florida, was assigned to oversee the Radiation Safety Program by management in January 2016.
- b. Application for Materials License package requesting Clayton Vandersall be named as RSO was sent to the NRC on March 7, 2016
- c. Amendment No. 06 received from the NRC on June 3, 2016 naming Clayton Vandersall as the Mitchell Facility RSO.
- d. Monthly Radiation Safety Program meetings setup for management personnel to review the status of the Radiation Safety Program to ensure NRC reporting guidelines are met. Meeting notification will automatically generate from the Outlook System Exchange Server.
- e. Radiation Safety Program functions entered into the SAP Maintenance CMMS (Computerized Maintenance Management System) program to automatically generate at the specified dates indicated on the Materials License 13-26779-01. Completion of required tests will be documented in the CMMS system for retrieval as required.

IV. Corrective actions to be completed by December 31, 2016 for full compliance

- a. Submit Amendment to the NRC for the addition of an alternate RSO to the Mitchell Facility.
- b. Revise Mitchell Plant Policy# S:33 to include the following:
 - i. Identify the Radiation Safety Program as a critical regulator function within the plant requiring management review bi-annually.
 - ii. Identification of key management individuals assigned to oversee the Radiation Safety Program.
 - iii. Procedures for replacement of the RSO and the required notifications and timeframe for documents to be submitted to the NRC.

- V. Procedures for onboarding key management personnel to the Mitchell Facility.

NRC Enforcement Policy Section 6.3.d.8 categorizes the failure to seek NRC approval prior to replacement of the RSO as a Severity Level IV violation. The facility has not been the subject of escalated enforcement action within the last two inspection periods. The violation was nonwillful. We also undertook comprehensive corrective action by appointing a new RSO, submitting an application with respect to the new RSO to the NRC, and revising plant procedures to ensure that reporting guidelines are met. Accordingly, pursuant to NRC Enforcement Policy Section 2.3.4, we respectfully request that the NRC consider mitigating circumstances, exercise its discretion, and classify the violation as a Severity Level IV with no civil penalty assessed.

Please feel free to contact me regarding any questions or comments outlined in this response letter to the apparent violation outlined in the NRC document: NRC SPECIAL INSPECTION REPORT NO.03034344/2016001(DNMS) LEHIGH CEMENT COMPANY, LLC.

Sincerely,



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Plant Manager

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cc: Clayton Vandersall, Radiation Safety Officer
Cody Hall, Safety Manager