



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

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

August 11, 2017

EA-17-125

Mr. Thomas Carpenter
Director of Generation and Engineering Services
Board of Light and Water City of Marquette
2200 Wright Street
Marquette, MI 49855

**SUBJECT: NRC SPECIAL INSPECTION REPORT NO. 03018052/2017001(DNMS) – BOARD
OF LIGHT AND WATER CITY OF MARQUETTE**

Dear Mr. Carpenter:

On June 22, 2017, an inspector from the U.S. Nuclear Regulatory Commission (NRC) conducted a special inspection at your Marquette, Michigan facility with continued in-office review through July 27, 2017. 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 your corrective actions. The enclosed inspection report 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, one apparent violation of NRC requirements was identified and is being considered for escalated enforcement action 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 apparent violation concerned the licensee's failure for the individual specifically authorized by Condition 12 of your NRC Materials License to fulfill the duties and responsibilities of RSO.

Because the NRC has not made a final determination in this matter, the NRC is not issuing a Notice of Violation for this inspection finding at this time. Messrs. Luis Nieves and Aaron McCraw of my staff discussed the circumstances surrounding this apparent violation, the significance of the issue, and the need for lasting and effective corrective action with Mr. Dan McDougall of your staff via telephone during the inspection exit meeting on July 28, 2017.

Before the NRC makes its enforcement decision, we are providing you an opportunity to either: (1) respond in writing to the apparent violation addressed in this inspection report within 30 days of the date of this letter; (2) request a Predecisional Enforcement Conference (PEC).

Please contact Mr. McCraw at 630-829-9650 or aaron.mccraw@nrc.gov within 10 days of the date of this letter to notify the NRC of your intended response.

If you choose to provide a written response, it should be clearly marked as "Response to the Apparent Violation in Inspection Report No. 03018052/2017001(DNMS); EA-17-125," and should include, for the apparent violation: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation; (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 or will be achieved. In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violation. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be useful in preparing your response. You can find the information notice on the NRC's website at: <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a PEC.

If you choose to request a PEC, it will afford you the opportunity to provide your perspective on the apparent violation and any other information that you believe the NRC should take into consideration before making an enforcement decision. The topics discussed during the conference may include the following: information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned to be taken. If a PEC is held, the NRC will issue a press release to announce the time and date of the PEC. The PEC will be open to public observation.

Because your facility has not been the subject of escalated enforcement action within the last two inspections, a civil penalty may not be warranted in accordance with Section 2.3.4 of the Enforcement Policy. In addition, based upon the NRC's understanding of the facts and your corrective actions, it may not be necessary to conduct a PEC in order to enable the NRC to make a final enforcement decision. Our final decision will be based on your confirming on the license docket that the corrective actions previously described to the staff have been or are being taken.

Please be advised that the number and characterization of the apparent violations described in the enclosed inspection report may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

In accordance with Title 10 of the *Code of Federal Regulations* (CFR) Section 2.390 of the NRC's "Rules of Practice," 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'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.

T. Carpenter

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Please feel free to contact Mr. Nieves if you have any questions regarding this inspection. Mr. Nieves can be reached at 630-829-9571.

Sincerely,

/RA/

John B. Giessner, Director
Division of Nuclear Materials Safety

Docket No. 030-18052
License No. 21-20174-01

Enclosure:
IR 03018052/2017001(DNMS)

cc w/encl: Mr. McDougall, RSO
State of Michigan

Letter to Thomas Carpenter from John Giessner dated August 11, 2017

SUBJECT: NRC SPECIAL INSPECTION REPORT NO. 03018052/2017001(DNMS) – BOARD OF LIGHT AND WATER CITY OF MARQUETTE

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DATE	8/11/2017	8/9/2017			8/11/2017		8/11/2017	

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**U.S. Nuclear Regulatory Commission
Region III**

Docket No. 030-18052

License No. 21-20174-01

Report No. 03018052/2017001(DNMS)

EA No. EA-17-125

Licensee: Board of Light and Water City of Marquette

Facility: 2200 Wright Street
Marquette, MI 49855

Inspection Dates: June 22, 2017, with continued in-office review
through July 27, 2017.

Exit Meeting Date: July 28, 2017

Inspector: Luis Nieves, Health Physicist

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

Enclosure

EXECUTIVE SUMMARY

Board of Light and Water City of Marquette NRC Inspection Report 03018052/2017001(DNMS)

On June 22, 2017, with continued in-office review through July 27, 2017, the U.S. Nuclear Regulatory Commission (NRC) conducted a special inspection to review the facts and circumstances surrounding a call received from Board of Light and Water (the licensee) informing the NRC that the Radiation Safety Officer (RSO) had left, and to ensure that activities were being performed in accordance with NRC requirements.

Based on information gathered during the inspection, the inspector determined that, since May 5, 2017, the licensee apparently failed to have the individual named on the license as RSO perform the duties and functions of RSO, as required by License Condition 12. The inspector determined that, although the licensee was operating without a qualified person formally appointed as RSO, there were no safety or other regulatory concerns with respect to the licensee's program.

The root cause of the apparent violation was that licensee was unaware of the requirement to amend the NRC license to reflect a change in RSO. As corrective action, the licensee has committed in a letter to involve the manufacture in response to any action (leak test, shutter check, or event) involving the fixed gauges. The licensee committed to sending one member of its staff to attend RSO training on August 22, 2017, and then submit an amendment request to list this individual on the license as RSO.

REPORT DETAILS

1 Program Overview and Inspection History

Board of Light and Water City of Marquette (licensee) is a fixed gauge license that possessed 17 specifically license fixed gauges containing cesium-137 in the production of electric power. This facility is the primary source of power for residents of the Upper Peninsula of Michigan.

The NRC conducted routine inspections of the licensee on September 1, 2016 and January 6, 2012. The NRC did not identify any violations during these inspections.

2 Radiation Safety Program

2.1 Inspection Scope

The inspector interviewed licensee management and staff, and reviewed the elements of the licensee's radiation safety program including the following: records of the physical inventories, shutter checks, leak tests, and audits.

2.2 Observations and Findings

On June 5, 2017, the NRC received a call from the licensee informing the NRC that its RSO had left on May 5, 2017. At that time, the NRC staff let the licensee know that it is in violation of Condition 12 of its NRC Radioactive Materials License No. 21-20174-01 until it can get a qualified person appointed and listed on the license.

Condition 12 of NRC License No. 21-20174-01 lists a specific individual as the RSO for the license. That individual left the licensee's employ on May 5, 2017, and is no longer able to fulfill the duties and responsibilities of RSO for the license. The licensee did not have any other individuals on staff with the required qualifications to appoint a new RSO. The licensee's lack of a qualified individual to fulfill the duties and responsibilities of the RSO is an apparent violation of Condition 12.

On June 22, 2017, the inspector conducted a special inspection to assess the impact of the licensee's continued operations in the absence of a qualified RSO. The inspector toured their facility and reviewed training documents, audits, leak test, shutter checks, and inventory of the gauges. Prior to leaving employment on May 5, 2017, the individual listed as RSO on the license had performed shutter checks and inventories on all gauges. The inspector interviewed staff and determined that the licensee had individuals knowledgeable of the location and basic operations of the gauges on staff; however, those individuals have not received the required training to meet the qualifications for RSO. The inspector did not identify any safety or other regulatory concerns as a result of the lack of a qualified RSO.

The licensee explored interim options to restore compliance, such as obtaining an outside consultant RSO; however, those attempts were unsuccessful. Because the licensee is the primary source of power for residents in the area, the licensee should remain operational during this period without a qualified RSO. As a compensatory measure, in a letter dated July 20, 2017, the licensee committed to involve the manufacturer in response to any action (e.g., leak test, shutter check, or event) involving

the fixed gauges. The licensee committed to send one member of its staff to attend RSO training on August 22, 2017, and then submit an amendment request to list this individual on the license as RSO upon completion of the training.

The NRC has determined that the licensee's commitments and timelines are adequate to protect public health and safety and to restore compliance. The NRC has further determined that the safety significance of the licensee continuing use of the gauges and sustaining power production in the absence of a formally appointed, qualified RSO for a short duration is low. The NRC maintains open communications with the licensee during the period of non-compliance and will continue to monitor the licensee's progress in restoring compliance.

2.3 Conclusions

The inspector identified one apparent violation of License Condition No. 12 of NRC License No. 21-20174-01 for the licensee's apparent failure to have the individual named on the license perform the duties and responsibilities of RSO since May 5, 2017.

4 **Exit Meeting Summary**

The NRC inspector presented the preliminary inspection findings following the onsite inspection on June 22, 2017. The licensee did not identify any documents or processes reviewed by the inspector as proprietary. A final telephonic exit meeting was conducted on July 28, 2017. The licensee acknowledged the findings presented.

LIST OF PERSONNEL CONTACTED

Dan McDougal, Relief Shift Supervisor/Safety/Training

Attended the exit meetings on June 22, 2017, and July 28, 2017.

INSPECTION PROCEDURES USED

87124: Fixed and Portable Gauge Programs