



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

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

November 8, 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: NOTICE OF VIOLATION – BOARD OF LIGHT AND WATER CITY
OF MARQUETTE; NRC SPECIAL INSPECTION REPORT
NO. 03018052/2017001(DNMS)**

Dear Mr. Carpenter:

This letter refers to the U.S. Nuclear Regulatory Commission (NRC) special inspection on June 22, 2017, 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. During the inspection, an apparent violation of NRC requirements was identified. The significance of the issue and the need for lasting and effective corrective actions were discussed with Mr. Dan McDougall of your staff via telephone during the inspection exit meeting on July 28, 2017. Details regarding the apparent violation were provided in NRC Inspection Report No. 03018052/2017001(DNMS) dated August 11, 2017. The inspection report is available electronically in the NRC's Agencywide Documents Access and Management System (ADAMS) at accession number ML17226A155.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter dated September 6, 2017, you provided a response to the apparent violation. Your letter is available electronically in the NRC's ADAMS at accession number ML17250A147.

Based on the information developed during the inspection and the information that you provided in your response to the inspection report dated September 6, 2017, the NRC has determined that a violation of NRC requirements has occurred. This violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it is described in detail in the subject inspection report. The violation involved the failure to have the individual named on the license perform the duties and responsibilities of the Radiation Safety Office (RSO) for the period of May 5, 2017, to September 19, 2017, as required by License Condition No. 12 of NRC License No. 21-20174-01. Specifically, the RSO listed on the license left your employment on May 5, 2017, and the license was not amended to name a new RSO until September 19, 2017. The root cause of the apparent violation was that licensee staff was unaware of the timeliness requirement on appointing a new, qualified RSO upon departure of the listed RSO.

The failure to have an RSO is of regulatory concern because you could have performed activities under your NRC license without ensuring you are meeting the conditions of your license. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy as a Severity Level III. In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$7,000 is considered for a Severity level III violation.

Because your facility has not been the subject of escalated enforcement action within the last two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. The NRC considered the information you provided to the NRC inspector and your response dated September 6, 2017. Your immediate corrective actions included involving the manufacturer in any checks/repairs/inventory/audits associated with your gauge while you scheduled RSO training for one of your employees for August 22, 2017, and you requested an amendment to your license to appoint the qualified employee as the RSO. You maintained an open line of communication with the NRC during the time you took actions to restore compliance. As of August 23, 2017, the individual completed the RSO training course to meet the training requirements to be qualified to perform the duties of an RSO. The NRC amended your license to include the new RSO on September 19, 2017. To prevent recurrence, you have established contact with two companies that offer RSO and authorized user training, which you can obtain proper training for future RSOs, if needed. Based on these actions, credit for corrective actions was warranted.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III constitutes escalated enforcement action that may subject you to increased inspection effort. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

The NRC has concluded that the 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 was achieved is already adequately addressed on the docket in the inspection report dated August 11, 2017, in your response dated September 6, 2017, the amendment to your NRC license dated September 19, 2017, and this letter. 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 "Rules of Practice," a copy of this letter, its enclosure(s), and your response will be made available electronically for public inspection in the NRC Public Document Room and 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, 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, 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 information, 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 information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). The NRC also includes significant enforcement actions on its Web site at (http://www.nrc.gov/reading_rm/doc_collections/enforcement/actions/).

Sincerely,

/RA/

Cynthia D. Pederson
Regional Administrator

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

Enclosure:
Notice of Violation

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

Letter to Thomas Carpenter from Cynthia Pederson dated November 8, 2017

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

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NOTICE OF VIOLATION

Board of Light and Water City of Marquette
Marquette, Michigan

Docket No. 030-18052
License No. 21-20174-01
EA-17-125

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted June 22, 2017, at your Marquette, Michigan facility, with continued in-office review through July 27, 2017, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

- A. License Condition No. 12 of Amendment No. 06 of NRC License 21-20174-01 named an individual as the Radiation Safety Officer (RSO) for this license.

Contrary to the above, from May 5, 2017, through September 19, 2017, the licensee failed to have the named individual on the license perform the duties and responsibilities of the RSO. Specifically, the RSO listed on the license left the licensee's employment on May 5, 2017, and the license was not amended to name a new RSO until September 19, 2017.

This is a Severity Level III 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 achieved, is already adequately addressed on the docket in Inspection Report No. 03018052/2017001(DNMS) dated August 11, 2017, in your response dated September 6, 2017, the amendment to your NRC license dated September 19, 2017, and the letter transmitting this Notice of Violation (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, EA-17-125" 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, Suite 210, 2443 Warrenville Rd, Lisle IL, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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.

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>. To the extent possible, the response should not include any personal privacy, proprietary, or safeguards 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 8th day of November, 2017.

Enclosure