



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

November 15, 2017

EA-17-079

Mr. Adam Maier
Radiation Safety Officer
Terracon Consultants, Inc.
18001 West 106th Street
Olathe, KS 66061

SUBJECT: NOTICE OF VIOLATION AND NRC INSPECTION REPORT 030-32176/2017-001

Dear Mr. Maier:

This letter refers to the announced, special inspection initiated on February 7, 2017, at your facility in Springfield, Missouri, with continued in-office review through August 22, 2017. This special inspection was conducted in response to an Event Notification Report (Event 52453) dated December 21, 2016, involving damage that occurred to a portable moisture/density gauge when it was struck by equipment at a temporary job site on December 21, 2016, in Conway, Missouri. The purpose of this inspection was to examine activities conducted in response to the event and activities conducted under your license as they relate to public health and safety and compliance with the U.S. Nuclear Regulatory Commission's (NRC's) rules and regulations. The results of the inspection and details regarding an apparent violation were provided in NRC Inspection Report 030-32176/2017-001, dated September 19, 2017 (Agencywide Documents Access and Management System (ADAMS) ML17240A407).

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 October 10, 2017 (ADAMS Accession ML17289A218), you provided a written response to the apparent violation.

Based on the information developed during the inspection and the information that you provided in your response to the inspection report dated September 19, 2017, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding the violation were described in detail in the subject inspection report. The violation involved the failure to control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage. Specifically, while working on a temporary job site in Conway, Missouri, a gauge was struck by a tire of a steel drum roller while the gauge user was approximately 20-25 feet away preparing the next test site.

The NRC evaluated the significance of the violation. The failure to control and maintain constant surveillance of the portable gauge, resulting in it being struck by a vehicle, could have damaged the sealed source and resulted in unnecessary radiation exposures to occupational workers or members of the public. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$14,000 is considered for a Severity Level III violation. Because your facility's portable gauge license has not been the subject of escalated enforcement actions within the last 2 years, 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 NRC Enforcement Policy. Your corrective actions were described in the subject inspection report and your letter dated October 10, 2017.

The corrective actions included requiring the gauge user to retake the initial gauge user training course and retraining the gauge user on your "Core Rules and Practices." In addition, the corporate radiation safety officer sent a notification of the event to all field offices and required that all gauge users be informed of the incident and provided refresher training on the proper procedures for maintaining surveillance and control of portable gauge devices at temporary job sites. Based on these corrective actions, the NRC has concluded that *Corrective Action* credit is 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 violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that 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 NRC Inspection Report 030-32176/2017-001 and the letter from you dated October 10, 2017. 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 "Agency Rules of Practice and Procedure," 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 Public Document Room and in ADAMS, accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

If you have any questions concerning this matter, please contact Mr. Michael C. Hay of my staff at 817-200-1455.

Sincerely,

/RA/

Kriss M. Kennedy
Regional Administrator

Docket No. 030-32176
License No. 15-27070-01

Enclosure: Notice of Violation

cc w/ enclosures:
K. Steves, Director
Kansas Radiation Control Program

J. Langston, Director
Missouri Radiation Control Program

NOTICE OF VIOLATION AND NRC INSPECTION REPORT 030-32176/2017-001 –
November 15, 2017

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ADAMS ACCESSION NUMBER: **ML17319A437**

SUNSI Review: ADAMS: Non-Publicly Available Non-Sensitive Keyword:
By: CCA Yes No Publicly Available Sensitive

OFFICE	ACES	MLIB	C:MLIB	DD:DNMS	TL:ACES	RC
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DATE	10/17/17	10/25/17	10/25/17	10/25/17	10/17/17	10/18/17
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NOTICE OF VIOLATION

Terracon Consultants, Inc.
Olathe, Kansas

Docket No.: 030-32176
License No.: 15-27070-01
EA-17-079

During an NRC inspection conducted on February 7, 2017, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 20.1802 requires, in part, that the licensee shall control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage.

Contrary to the above, on December 21, 2016, the licensee failed to control and maintain constant surveillance of licensed material that was in a controlled or unrestricted area and was not in storage. Specifically, a technician failed to maintain constant surveillance of a portable gauge when the technician walked away from the gauge to inspect another part of the job site, resulting in the gauge being struck and damaged by a tire of a steel drum roller.

This is a Severity Level III violation (NRC Enforcement Policy Section 6.7.c.10.a)

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 NRC Inspection Report 030-32176/2017-001 and the letter from you dated October 10, 2017. 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-17-079," 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 IV, 1600 East Lamar Boulevard, Arlington, Texas 76011-4511, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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>. Therefore, 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.

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).

Enclosure

In accordance with 10 CFR 19.11, you may be required to post this Notice within 2 working days of receipt.

Dated this 15th day of November 2017