



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
2100 RENAISSANCE BLVD., Suite 100
KING OF PRUSSIA, PA 19406-2713

December 7, 2017

EA-17-177

Larry D. Adams, P.E.,
Vice President, Permitting and
Environmental Affairs
Booth Energy
Southeastern Land, LLC
P.O. Box 190
Lovely, KY 41231

SUBJECT: SOUTHEASTERN LAND, LLC - NRC INSPECTION NOS. 03039002/2017001
AND 03039003/2017001, AND NOTICE OF VIOLATION

Dear Mr. Adams:

This letter refers to the NRC inspections conducted on September 19, 2017, at your Naugatuck, West Virginia facility and on September 20, 2017, at your Bickmore, West Virginia facility, with continued in-office review until December 6, 2017. This inspection examined activities conducted under your licenses as they relate to public health and safety, and to confirm compliance with the Commission's rules and regulations and with 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. Additional information was gathered and considered in our review during a telephone call with Duffy Ferrell of your staff on November 30, 2017, and between you and Randolph Ragland of my staff during a telephone inspection exit meeting on December 6, 2017.

Based on the results of this inspection, the NRC has determined that two Severity Level IV violations of NRC requirements occurred on each license. These violations were evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at (<https://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>). The violations are cited in the enclosed Notice of Violation (Notice) because the violations were identified by the NRC.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Notice. The NRC review of your response to the Notice will also determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC document 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.

Current NRC regulations and guidance are included on the NRC's Web Site at www.nrc.gov; select **Nuclear Materials; Med, Ind, & Academic Uses**; then **Regulations, Guidance and Communications**. The current Enforcement Policy is included on the NRC's Web Site at www.nrc.gov; select **About NRC, Organizations & Functions; Office of Enforcement; Enforcement documents**; then **Enforcement Policy (Under 'Related Information')**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 8:00 a.m. to 5:30 p.m. EST, Monday through Friday (except Federal holidays).

If you have any questions regarding this matter, please contact Randolph Ragland of my staff at 610-337-5083 or via electronic mail at Randolph.Ragland@nrc.gov.

Thank you for your cooperation.

Sincerely,

/RA/

Craig Gordon, Chief
Commercial, Industrial, R&D
and Academic Branch
Division of Nuclear Materials Safety
Region I

Docket Nos. 03039002 and 03039003
License Nos. 16-35383-01 and 16-35383-02

Enclosure:
Notice of Violation

cc w/ enclosure: Duffy Ferrell, Radiation Safety Officer
State of West Virginia

Current NRC regulations and guidance are included on the NRC's Web Site at www.nrc.gov; select **Nuclear Materials; Med, Ind, & Academic Uses**; then **Regulations, Guidance and Communications**. The current Enforcement Policy is included on the NRC's Web Site at www.nrc.gov; select **About NRC, Organizations & Functions; Office of Enforcement; Enforcement documents**; then **Enforcement Policy (Under 'Related Information')**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 8:00 a.m. to 5:30 p.m. EST, Monday through Friday (except Federal holidays).

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Craig Gordon, Chief
Commercial, Industrial, R&D
and Academic Branch
Division of Nuclear Materials Safety
Region I

Docket Nos. 03039002 and 03039003
License Nos. 16-35383-01 and 16-35383-02

Enclosure:
Notice of Violation

cc w/ enclosure: Duffy Ferrell, Radiation Safety Officer
State of West Virginia

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SUNSI Review Complete: R. C. Ragland

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NAME	RRagland/rcr	CCrisden/jcj	CGordon/cg		
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NOTICE OF VIOLATION

Southeastern Land, LLC
Lovely, KY

Docket Nos. 03039002 and 03039003
License Nos. 16-35383-01 and 16-35383-02

During NRC inspections conducted on September 19 and 20, 2017, with continued in-office until December 6, 2017, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. License Condition 12 of NRC License Nos. 16-35383-01 and 16-35383-02, both dated November 15, 2016, authorized a specific named individual to fulfill the duties and responsibilities of the Radiation Safety Officer (RSO) for the license.

Contrary to the above, from January 2017, until October 2017, the named individual specifically authorized in Condition 12 of the licenses did not fulfill the duties and responsibilities of an RSO for the licensee. Specifically, the RSO named on the license retired and Southeastern Land Co. management did not name a new RSO and submit a license amendment request to NRC until October 13, 2017.

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

- B. Title 10 CFR Part 20.1101(c) requires licensees to periodically (at least annually) review the radiation protection program content and implementation. 10 CFR 20.2102(a)(2) requires licensees to maintain records of radiation protection program content and implementation reviews.

Contrary to the above, from March 2016, to October 2017, the licensee did not fully review the radiation protection program content and implementation. Specifically, the licensee conducted and documented gauge inventory, leak tests, radiological surveys, evaluation of overall condition of gauges, and adequacy of radiological postings, but did not conduct a full program review that included maintenance of records, the organization and scope of the program, and compliance with NRC license conditions.

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

Pursuant to the provisions of 10 CFR 2.201, Southeastern Land, LLC, is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555, with a copy to the Regional Administrator, Region I, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the 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 will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

If you contest this enforcement action, you should also provide a copy of your response to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, any response which contests an enforcement action shall be submitted under oath or affirmation.

Your response will be placed in the NRC Public Document Room (PDR) and on the NRC Web site. To the extent possible, it should, therefore, not include any personal privacy, proprietary, or safeguards information so that it can be made publically available without redaction. However, if you find it necessary to include such information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.

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

Dated This 7th day of December 2017