

NOTICE OF VIOLATION

Department of the Interior
Bureau of Indian Affairs
Western Navajo Agency, Branch of Roads
P.O. Box 127
Tuba City, Arizona 86045

Docket No. 030-19746
License No. 02-21080-01

During an NRC inspection conducted on May 5, 1993, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C, the violations are listed below:

- A. License Condition 16 requires in part that the licensee possess and use licensed material in accordance with the statements, representations, and procedures contained in the letter dated November 2, 1992.

The letter dated November 2, 1992, requires the licensee to exchange TLD badges used for personnel monitoring in each calendar quarter.

Contrary to the above, during the period between January 1990 and January 1993, the licensee had not exchanged TLD badges in each calendar quarter, in that badges were issued for personnel monitoring in only two calendar quarters yearly, and after use, the badges were returned to the vendor for processing up to 3½ months late after the end of the previous quarterly monitoring period as follows:

<u>Assigned Monitoring Period</u>	<u>Date Returned to Vendor</u>
January 1 thru March 31, 1990	June 22, 1990
July 1 thru September 30, 1990	January 18, 1991
January 1 thru March 31, 1991	June 24, 1991
July 1 thru September 30, 1991	December 23, 1991
March 1 thru May 31, 1992	June 15, 1992
July 1 thru September 30, 1992*	January 12, 1993

*Badges issued during this period were also worn during the quarterly monitoring period: October 1 thru December 31, 1992.

This is a Severity Level IV violation (Supplement VI).

- B. 10 CFR 30.41(a) and (b)(5) require, in part, that no licensee transfer byproduct material except to a person authorized to receive such byproduct material under the terms of a specific or general license issued by the Commission or Agreement State.

Contrary to the above, on July 15, 1992, the licensee transferred sources containing 10 millicuries of cesium-137 and 50 millicuries of americium-241 in a moisture-density gauge (Serial Number M12064472) to the Bureau of Indian Affairs, Eastern Navajo Agency, Crownpoint, New Mexico, a person who was not authorized to receive such byproduct material under the terms of a general or specific license issued by the Commission or Agreement State.

This is a Severity Level IV violation (Supplement VI).

Pursuant to the provisions of 10 CFR 2.201, the Bureau of Indian Affairs, Western Navajo Agency, Tuba City, Arizona, 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 V, 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. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued to show cause 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.

Dated at Walnut Creek, California
this 15th day of June 1993

JUN - 1 1993

Docket No. 030-19746
License No. 02-21080-01

Department of the Interior
Bureau of Indian Affairs
Western Navajo Agency, Branch of Roads
P.O. Box 127
Tuba City, Arizona 86045

Attention: Mr. Wilfred Brown
Agency Superintendent

SUBJECT: NOTICE OF VIOLATION

This refers to the inspection conducted by Mr. David D. Skov of t' office on May 5 and 17, 1993. The inspection included a review of activities authorized for your facility in Tuba City, Arizona. At the conclusion of the inspection, the inspection findings were discussed with the Supervisory Highway Engineer, Norman Brugger by telephone on May 18 and 25, 1993.

The inspection was an examination of the activities conducted under your license as they relate to radiation safety and to compliance with the Commission rules and regulations and the conditions of the license. The inspection consisted of selective examinations of procedures and representative records, interviews with personnel, and observations of activities in progress. The purpose of the inspection was to determine whether activities authorized by the license were conducted safely and in accordance with NRC requirements.

Based on the results of this inspection, certain of your activities appeared to be in violation of NRC requirements, as specified in the enclosed Notice of Violation (Notice). The failure to assign and exchange TLD whole body monitoring badges in each calendar quarter, which is a repeat of violations cited following NRC inspections in June 1988 and May 1990, and the transfer of licensed radioactive sources to a person who was not authorized to receive the material, indicate a lack of management involvement and control in your radiation safety program. There is a need for strong participation by management to control your overall licensed program. Although TLD badges are now being issued to personnel and exchanged on a quarterly basis, your Radiation Safety Officer (RSO) said he was unaware of the past NRC violations involving your badge program, and no action was taken to correct the violations until after the RSO was informed of the quarterly TLD badge requirement during NRC's review of your license renewal application on October 28, 1992.

The failure to issue and exchange personnel monitoring badges at the required frequency would normally be classified as a Severity Level V violation. However, due to the repetitive nature of this violation, it has been elevated in significance to the Severity Level IV category based on the NRC Enforcement Policy, 10 CFR Part 2, paragraph IV.B. You should be aware that any future repetition of a violation similar to that involved in this enforcement action will result in an escalated enforcement which could include imposition of a civil penalty.

An additional violation was also identified concerning the failure to maintain records of individuals designated as users of moisture/density gauges containing licensed material, as required by License Condition 11. However, this violation was not cited because the criteria specified in paragraph VII.B. of the NRC Enforcement Policy (10 CFR Part 2, Appendix C) were satisfied.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. Your response should document the specific actions taken and any additional actions you plan to prevent recurrence of these violations. Also, specifically describe what administrative controls will be established to improve the management oversight of your licensed program to prevent violations of NRC requirements. After reviewing your response to this Notice, including your proposed corrective actions and the results of future inspections, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be placed in the NRC Public Document Room.

The responses directed by this letter and the enclosed Notice are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, Pub. L. No. 96-511.

Sincerely,

Gregory P. Yuhas, Chief
Radioactive Materials Safety Branch

Enclosure:
Notice of Violation

cc:
Norman Brugger
P.O. Box 787
Tuba City, Arizona 86045

bcc w/enclosure:
Docket File
Inspection File
G. Cook
R. Huey
B. Faulkenberry
State of Arizona

bcc w/o enclosure:
M. Smith
J. Zollicoffer
Region V/ds

DSkov *DS*
5/26/93

RHuey *H*
6/1/93

GYuhas *Gay*
6/1/93

REQUEST COPY]	REQUEST COPY]	REQUEST COPY]	SEND TO DCS]	SEND TO PDR]
YES / NO	YES / NO	YES / NO	YES / NO	YES / NO