

DMB

JAN 12 1982  
1983

Empire Sand & Gravel Co., Inc.  
ATTN: Dennis Devous  
P. O. Box 1215 Mary Street  
Billings, Montana 59103

License: 25-17576-01  
Expiration Date: July 31, 1982

30-12995

Gentlemen:

SUBJECT: NOTICE OF VIOLATION

This refers to the telephone discussion between Mr. D. B. Spitzberg of this office and Mr. Dennis Devous of your organization on December 21, 1982. The subject of the discussion was the fact that NRC records show that the Byproduct Materials License identified above has expired and no renewal application has been filed in accordance with Section 30.37 of Title 10, Code of Federal Regulations, Part 30.

From our discussion with your representative we learned that you still possess material which requires a specific NRC license. Your possession of that material without a valid, specific license is a violation of Section 30.3, 10 CFR Part 30. Section 30.3 states:

Section 30.3 Activities requiring license. Except for persons exempt as provided in this part and Part 150 of this chapter, no person shall manufacture, produce, transfer, receive, acquire, own, possess, use, import, or export byproduct material except as authorized in a specific or general license issued pursuant to the regulations in this chapter.

This Notice of Violation is sent to you under the provisions of Section 2.201 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations. Section 2.201 requires you to submit to this office, within 30 days of your receipt of this notice, a written statement or explanation in reply including: (1) corrective steps which have been taken by you, and (2) corrective steps which will be taken to avoid this happening in the future.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter and your reply will be placed in the Public Document Room.

In addition to your reply to this Notice of Violation, if you want to continue your program you must immediately submit the enclosed NRC Form 313, "Application for Byproduct Materials License" to the License Management Branch, Office of Nuclear Materials Safety and Safeguards, U. S. Nuclear Regulatory Commission, Washington, D. C., 20555. A copy of the letter forwarding the application to the licensing branch (but not the application) should be sent to this office, Region IV, U. S. Nuclear Regulatory Commission, 611 Ryan Plaza Dr., Suite 1000, Arlington, Texas, 76011, Attention: Glen D. Brown, Chief, Technical Programs Branch.

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

MRPS DEB  
BSpitzberg:jd  
1/3/83

MRPS de  
JEverett  
1/2/83

TPB OM  
GBrown  
1/2/83

DDV & TPB  
RBangart  
01/26/83

ES SMO  
EJohnson  
1/11/83

RA/RIV  
JCollins  
1/11/83

8301180289 830112  
NMS LIC30  
25-17576-01 PDR

Jan 11 1983

IEDT

JAN 12 1982

Empire Sand & Gravel Co., Inc.

-2-

Also, you must immediately place the radioactive material on hand in secure storage until such time as you acquire a valid license. No other use of the material on hand or purchase of additional byproduct material is authorized. Include a statement in your reply to this Notice of Violation confirming that you have taken this action and describing the controls that will be exercised over the stored material until such time that you obtain a valid license.

Since your present license has expired, your application for renewal will be processed as a request for a new license. Accordingly, you must determine if your program is subject to a license fee as required by Section 170.31 of 10 CFR Part 170 and, if one is required, submit the appropriate fee along with the application.

The responses directed by this Notice are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, PL 96-511.

We request that you give prompt attention to these matters. Should you have any questions regarding them, we would be pleased to discuss them with you.

Sincerely,

Glen D. Brown, Chief  
Technical Programs Branch

Enclosures:

1. NRC Form 313
2. 10 CFR Part 170

cc: Vandy L. Miller, Chief, Licensing  
Management Branch, NMSS

bcc: c/o DMB (IE07)  
AEOD/NR  
IE/DFMMS/FFMB01  
IE/RSB  
NMSS  
NRC PDR

bcc: RIV  
J. Collins  
R. Bangart  
E. Johnson  
Inspector  
S. File  
RIV File