

ENCLOSURE

NOTICE OF VIOLATION

North Fork Landfill, Inc.
Wheeling, West Virginia

Docket No. 030-33177
License No. 47-25252-01

During an NRC inspection conducted January 24, 1994, 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. 10 CFR 20.1801 requires that the licensee secure from unauthorized removal or access licensed materials that are stored in unrestricted areas. 10 CFR 20.1901 requires that the licensee control and maintain constant surveillance of licensed material that is in an unrestricted area and that is not in storage. As defined in 10 CFR 20.1003, *unrestricted area* means an area, access to which is neither limited nor controlled by the licensee.

Contrary to the above, from July 23, 1993 to January 24, 1994, the licensee did not secure from unauthorized removal or limit access to a Model 3411 Troxler gauge, Serial No. 4507, containing approximately 8 millicuries of cesium-137 and 40 millicuries of americium-241 located in the basement of the Authorized User's house, an unrestricted area, nor did the licensee control and maintain constant surveillance of this licensed material.

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

- B. Item 10 of License No. 47-25252-01 dated May 8, 1993 requires, in part, that licensed material be retained in a locked storage area at the licensee's facilities located at North Fork Landfill, 3.5 miles east of Route 2, at the intersection of North Fork and Short Creek, between Wheeling and West Liberty, West Virginia.

Contrary to the above, from July 23, 1993 to January 24, 1994, the gauge was stored at a location not authorized on the license. Specifically, a Model 3411 Troxler gauge, Serial No. 4507, containing approximately 8 millicuries of cesium-137 and 40 millicuries of americium-241 was stored in the basement of the Authorized User's house until the facilities described in the license application were completed.

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

- C. Item 19 of License No. 47-25252-01 dated May 8, 1993 requires, in part, that the gauge or container must be locked when in transport, storage or when not under the direct surveillance of an authorized user.

Contrary to the above, from July 23, 1993 to January 24, 1994, neither the gauge or the storage container were locked when in storage and not under direct surveillance of an authorized user.

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

- D. Item 21. A. of License No. 47-25252-01 dated May 8, 1993 requires, in part, that the licensee construct facilities and obtain equipment described in the application and supporting documentation prior to possession or use of materials authorized in the license, and ensure that the U.S. Nuclear Regulatory Commission, Region II, ATTN: Chief, Nuclear Materials Inspection Section, be notified that the activities authorized by the license will be initiated.

Contrary to the above, the licensee received a Model 3411 Troxler gauge, Serial No. 4507, containing approximately 8 millicuries of cesium-137 and 40 millicuries of americium-241 on July 23, 1993, prior to the facilities submitted in the license being constructed, and Region II of the U.S. Nuclear Regulatory Commission had not been notified that activities under the license had been initiated.

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

Pursuant to the provisions of 10 CFR 2.201, North Fork Landfill, Inc. 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 II, 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 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.

Dated at Atlanta, Georgia
this 14th day of February 1994