



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV

611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064

MAY 19 1994

Docket: 150-00005
License: Colorado License No. 838-01
EA 94-058

Rocky Mountain Phoenix Surveys, Inc.
ATTN: David Jull, Vice President
P.O. Box 745
Brighton, Colorado 80601

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -
\$500 (NRC INSPECTION REPORT NO. 150-00005/94-01)

This refers to the inspection conducted on February 16, 1994, at your office in Brighton, Colorado. A report describing the results of this inspection was issued on April 29, 1994. The inspection identified an apparent failure to follow NRC requirements for providing notice and paying fees to the NRC prior to conducting licensed activities in NRC jurisdiction. On May 10, 1994, Rocky Mountain Phoenix Surveys, Inc. representatives participated in a telephonic enforcement conference with representatives from NRC's Region IV office in Arlington, Texas. A list of enforcement conference participants is enclosed and, as requested during the conference, a copy of 10 CFR Part 39.

The NRC became aware of your activities in Wyoming, a state in which NRC has jurisdiction, on November 16, 1993, when you reported that a well-logging source had become stuck in a well. Although the license issued to you by the state of Colorado contains a specific provision requiring you to comply with 10 CFR 150.20 when working outside of the state, you stated during the enforcement conference that you were unfamiliar with the regulations because you had not previously worked outside of the state and because you had not reviewed the terms of your Colorado license prior to beginning work in Wyoming.

Based on the inspection and the information exchanged during the enforcement conference, the NRC concludes that its regulations were violated from August 20-21, 1993 and from November 13-17, 1993, when your company conducted well-logging activities in the state of Wyoming without filing the necessary forms and paying the required fees. The NRC considers violations of this requirement a matter of significant regulatory concern because the failure to notify us denies us the opportunity to conduct inspections while work is in progress to ensure compliance with all NRC radiation safety requirements. Thus, this violation has been classified at Severity Level III, in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy) 10 CFR Part 2, Appendix C.

The NRC recognizes the corrective actions that you have taken, which include filing a Form-241 and paying the required fee for the period in 1993 during which you were in violation. In addition, as discussed during the enforcement conference, you have amended your Colorado license to name a new radiation safety officer to improve your ability to comply with state and NRC

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PDR STPRG ESQCD
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JEH

MAY 19 1994

bcc w/Enclosures: (Enclosures 1 and 2 only)

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RA <i>[Signature]</i>				
LJCallan				
5/16/94				

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a check, draft, money order, or electronic transfer payable to the Treasurer of the United States in the amount of the civil penalty proposed above, or the cumulative amount of the civil penalties if more than one civil penalty is proposed, or may protest imposition of the civil penalty, in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within the time specified, an order imposing the civil penalty will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violations listed in this Notice, in whole or in part, (2) demonstrate extenuating circumstances, (3) show error in this Notice, or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty, in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the factors addressed in Section VI.B.2 of 10 CFR Part 2, Appendix C should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty due which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The responses noted above (Reply to Notice of Violation, letter with payment of civil penalty, and Answer to a Notice of Violation) should be addressed to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011.

Dated at Arlington, Texas,
this 19th day of May 1994

Enclosure 2

ENFORCEMENT CONFERENCE PARTICIPANTS

LICENSEE: Rocky Mountain Phoenix Surveys, Inc.

TIME/DATE: 10 a.m. CDT, May 10, 1994

LOCATION: Conference conducted telephonically

EA NUMBER: 94-058

Rocky Mountain Phoenix Surveys, Inc.

David Jull, Vice President
John Patterson, Secretary-Treasurer

NRC Region IV representatives

John Montgomery, Deputy Regional Administrator
Samuel Collins, Director, Division of Radiation Safety & Safeguards
Chuck Cain, Chief, Nuclear Materials Inspection Branch
Linda McLean, Radiation Specialist, NMIB
Christi Hernandez, Radiation Specialist, NMLB
William L. Brown, Regional Counsel
Gary F. Sanborn, Regional Enforcement Officer

State of Colorado

Chuck Mattson, Colorado Dept. of Health

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Dated at Arlington, Texas,
this 19th day of May 1994