



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

June 18, 2020

EA-20-047

Troy Wilson, Company Officer-Secretary
Alternate Radiation Safety Officer
Christian Wheeler Engineering
3980 Home Ave.
San Diego, CA 92105

SUBJECT: NOTICE OF VIOLATION, NRC INSPECTION REPORT 150-00004/2020-002

Dear Mr. Wilson:

This letter refers to our in-office document review of information submitted by Christian Wheeler Engineering to the U.S. Nuclear Regulatory Commission (NRC) on February 24, 2020, regarding performance of licensed activities in areas of exclusive Federal jurisdiction. The records review, conducted between February 24 and April 16, 2020, related to activities performed under your NRC general license, which was granted under Title 10 of the *Code of Federal Regulations* (10 CFR) 150.20, "Recognition of Agreement State licenses," to ensure compliance with NRC requirements. A final exit briefing was conducted telephonically with you on May 8, 2020, and the details regarding the apparent violation were provided in NRC Inspection Report 150-00004/2020-002, dated May 19, 2020, NRC's Agencywide Documents Access and Management System (ADAMS) Accession ML20135H087.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation by either attending a predecisional enforcement conference, requesting alternative dispute resolution, or providing a written response before we made our final enforcement decision. In a letter dated May 28, 2020 (ADAMS Accession ML20161A086), you provided a written response to the apparent violation.

Based on the information developed during the inspection and the information that you provided in your response to the inspection report dated May 19, 2020, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the subject inspection report. The violation involved the failure to file a submittal containing an NRC Form 241, a copy of the Agreement State specific license, and the appropriate fee with the appropriate regional office at least 3 days prior to engaging in licensed activities in areas of exclusive Federal jurisdiction for calendar year 2020.

The NRC considers the violation above to be a significant violation because the failure to file a submittal containing an NRC Form 241 and performing licensed activities in areas of exclusive Federal jurisdiction prevents the NRC from inspecting these areas and ensuring that licensed material is being used safely and in accordance with NRC requirements. Therefore, the violation has been categorized in accordance with the NRC Enforcement Policy at Severity

Level III. The Enforcement Policy can be found on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$7,500 is considered for a Severity Level III violation.

Because your facility has not been the subject of escalated enforcement actions within the last two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the NRC Enforcement Policy. The NRC has determined that *Corrective Action* credit is warranted for your prompt and comprehensive corrective actions that included: prompt submittal of the Form 241, Agreement State specific license, and reciprocity fee after identifying that initial NRC Form 241 was not filed. Additionally, you have set a reminder on the Microsoft outlook calendar and a note to file to proceed accordingly.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding: (1) the reason for the violation; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in your letter dated May 28, 2020, and NRC Inspection Report 150-00004/2020-002. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter, its enclosure, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's ADAMS, accessible from the website at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its website at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

T. Wilson

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If you have any questions concerning this matter, please contact Ms. Heather Gepford of my staff at 817-200-1156.

Sincerely,

Scott A. Morris
Regional Administrator

Docket No. 150-00004
License No. General License

Enclosure:
Notice of Violation

cc w/Enclosure:
Gonzalo L. Perez, Chief, RHB
State of California Radiation Program

NOTICE OF VIOLATION, NRC INSPECTION REPORT 150-00004/2020-002- DATED
JUNE 18, 2020

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Cvr Ltr & All Encl: ADAMS ACCESSION NUMBER: **ML20170B026**

SUNSI Review: JGK ADAMS: Non-Publicly Available Non-Sensitive Keyword: By:
 Yes No Publicly Available Sensitive

OFFICE	ES:ACES	TL:ACES	C:MLDB	RC	NMSS	OE
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SIGNATURE	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E
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OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Christian Wheeler Engineering
San Diego, CA

Docket No. 150-00004
License No. General License
EA-20-047

During an in-office NRC review conducted on February 24, to April 16, 2020, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 150.20(a)(1) states, in part, that any person who holds a specific license from an Agreement State is granted a general license to conduct the same activity in areas of exclusive Federal jurisdiction within Agreement States subject to the provisions of 10 CFR 150.20(b).

10 CFR 150.20(b)(1) requires, in part, that any person engaging in activities in areas of exclusive federal jurisdiction shall, at least 3 days before engaging in each activity for the first time in a calendar year, file a submittal containing an NRC Form 241, "Report of Proposed Activities in Non-Agreement States", a copy of its Agreement State specific license, and the appropriate fee with the Regional Administrator of the appropriate NRC regional office.

Contrary to the above, from January 7 through February 20, 2020, Christian Wheeler Engineering, a licensee of the State of California, engaged in activities in exclusive Federal jurisdiction without filing a submittal containing an NRC Form 241, a copy of its Agreement State specific license, and the appropriate fee with the Regional Administrator of the NRC Regional Office at least 3 days before engaging in each activity for the first time in a calendar year. Specifically, Christian Wheeler Engineering performed licensed activities at Camp Pendleton, Oceanside, California beginning on January 7 through February 5, 2020, and Marine Corps Air Station Miramar/Naval Air Station, San Diego, California from February 19 through 20, 2020, but did not submit an NRC Form 241, a copy of its Agreement State specific license, and the appropriate fee until February 24, 2020.

This is a Severity Level III violation (NRC Enforcement Policy Section 6.9.c.2(c)).

The NRC has concluded that information regarding: (1) the reason for the violations; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in your letter dated May 28, 2020, and NRC Inspection Report 150-00004/2020-002.

However, if the description therein does not accurately reflect your position or your corrective actions, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 within 30 days of the date of the letter transmitting this Notice of Violation (Notice). In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation; EA-20-047," and send it to U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511.

Enclosure

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's ADAMS, accessible from the website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy or proprietary information so that it can be made available to the public without redaction.

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

Dated this 18th day of June 2020