

NOTICE OF VIOLATION

Department of the Interior
Bureau of Indian Affairs
Albuquerque, New Mexico

Docket No. 030-08519
License No. 30-15065-01
EA 98-471

During an NRC inspection conducted on June 22 through November 2, 1998, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, 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 controlled or unrestricted areas. 10 CFR 20.1802 requires that the licensee control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage. As defined in 10 CFR 20.1003, *controlled area* means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee for any reason; and *unrestricted area* means an area, access to which is neither limited nor controlled by the licensee.

Contrary to the above, on June 23, and other days in 1998, the licensee did not secure from unauthorized removal or limit access to 3 portable gauging devices containing about 100 millicuries of americium-241 and 24 millicuries of cesium-137, located in an open storage facility, at the BIA Ramah Navajo Agency Branch of Roads Compound on Highway 124, which is a controlled area, nor did the licensee maintain constant surveillance of this licensed material. (01013)

- B. License Condition 14 requires that each portable nuclear gauge shall have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The gauge or its container must be locked when in transport, storage, or when not under the direct surveillance of an authorized user.

Contrary to the above, on June 23, 1998, 3 portable gauges did not have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position at the Ramah Navajo Agency storage facility. The gauges were in storage and were not under direct surveillance of an authorized user. (01023)

- C. License condition 15 requires that the licensee conduct a physical inventory every 6 months to account for all sources and/or devices received and possessed under the license.

Contrary to the above, the licensee did not conduct a physical inventory to account for all sources and/or devices received and possessed under the license between the period from October 1995 to June 23, 1998, an interval exceeding 6 months. (01033)

These violations represent a Severity Level III problem. (Supplement VI).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when

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full compliance was achieved is already adequately addressed on the docket in NRC Inspection Report No. 030-08519/98-01 and in a letter from the Licensee dated January 20, 1999. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

If you choose to respond, your response will be placed in the NRC Public Document Room (PDR). Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information).

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

Dated this 28th day of January 1999