



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
1600 EAST LAMAR BOULEVARD  
ARLINGTON, TEXAS 76011-4511

March 16, 2021

EA-21-013

Mr. Toetau Pouifi Tufuga  
Radiation Safety Officer  
McConnell Dowell (American Samoa) Ltd.  
P.O. Box 4664  
Pago Pago, AS 96799

SUBJECT: MCCONNELL DOWELL (AMERICAN SAMOA) LTD. – NRC INSPECTION  
REPORT 030-38318/2020-001 AND NOTICE OF VIOLATION

Dear Mr. Tufuga:

This letter refers to the Nuclear Regulatory Commission's (NRC) in-office review of the information submitted to the NRC Region IV office by McConnell Dowell (American Samoa) Ltd., in a license renewal application dated June 26, 2020.

Based on the review of the information submitted, the NRC determined that one violation of NRC requirements occurred. The violation involved the failure to confine the possession and use of the byproduct material to the locations and purposes authorized in the license as required by 10 CFR 30.34(c). The violation was evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's website at (<http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>).

The violation is cited in the enclosed Notice of Violation (Notice). The violation is being cited in the Notice because it was identified by the NRC. The NRC determined that this violation had little to no adverse impact on radiological or programmatic activities because: (1) your license authorized the possession and use of that isotope, type, and form of material; (2) one additional gauge did not result in a significant increase in the quantity of material; (3) the noncompliance was not willful and was isolated; and (4) all other significant safety/security requirements have been met. Therefore, this violation has been characterized in accordance with the NRC Enforcement Policy at Severity Level IV.

You are required to respond to this letter and should follow the instructions specified in Information Notice 96-28 when preparing your response. For your convenience, "Suggested Guidance Relating to Development and Implementation of Corrective Action," can be found on the NRC's website at (<https://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>). If you have additional information that you believe the NRC should consider, you may provide it in your response to the Notice. The NRC review of your response to the Notice will also determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

T. Tufuga

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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, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC 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.

Should you have any questions concerning this inspection, please contact Casey Alldredge, of my staff, at 817-200-1546.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather J. Gepford". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Heather J. Gepford, PhD., CHP, Chief  
Materials Licensing & Decommissioning Branch  
Division of Nuclear Materials Safety

Docket No.: 030-38318  
License No.: 56-29396-01  
Control No.: 621331

Enclosure:  
Notice of Violation

## NOTICE OF VIOLATION

McConnell Dowell (American Samoa) Ltd.  
Pago Pago, American Samoa

Docket: 030-38318  
License: 56-29396-01

In an application dated June 26, 2020, for a license renewal, a violation of the NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 30.34(c) requires, in part, that each person licensed by the Commission pursuant to the regulations in this part shall confine the possession and use of the byproduct material to the locations and purposes authorized in the license.

McConnell Dowell (American Samoa) Ltd.'s NRC Materials License 56-29396-01, Amendment 3, dated May 24, 2013, License Condition 6A-9B, states, in part, that the maximum amount that the licensee may possess at any one time under this license is 11 millicuries per source and 11 millicuries total of cesium-137, and 44 millicuries per source and 44 millicuries total of americium-241/beryllium for use in Humboldt Scientific, Inc., Model 5001 portable gauging devices.

Contrary to the above, from September 5, 2019, through December 22, 2020, the licensee failed to confine its possession and use of byproduct material to the locations and purposes authorized in the license. Specifically, the licensee possessed two Humboldt Scientific Model 5001 portable gauging devices resulting in the possession of 22 millicuries total of cesium-137 and 88 millicuries total of americium-241/beryllium, a quantity in excess of that authorized on the license.

This is a Severity Level IV violation (NRC Enforcement Policy, Section 6.3.d).

Pursuant to the provisions of 10 CFR 2.201, McConnell Dowell (American Samoa) Ltd., is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Director, Division of Nuclear Material Safety, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511, and email it to [R4Enforcement@nrc.gov](mailto:R4Enforcement@nrc.gov) 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; EA-21-013," and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken; and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued requiring information 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.

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.

Enclosure

Your response will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC 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.

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 2.390(b) to support a request for withholding confidential commercial or financial information).

Dated this 16th day of March, 2021

MCCONNELL DOWELL (AMERICAN SAMOA) LTD. – NRC INSPECTION  
 REPORT 030-38318/2020-001, AND NOTICE OF VIOLATION DATED – MARCH 16, 2021

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cc:

[Timani.Samau@mcdgroup.com](mailto:Timani.Samau@mcdgroup.com)  
[pouifi.tufuga@mcdgroup.com](mailto:pouifi.tufuga@mcdgroup.com)

ADAMS ACCESSION NUMBER: ML21075A347

<input checked="" type="checkbox"/> SUNSI Review By: CCA	ADAMS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Sensitive <input checked="" type="checkbox"/> Non-Sensitive	<input type="checkbox"/> Non-Publicly Available <input checked="" type="checkbox"/> Publicly Available	Keyword NRC-002
OFFICE	DNMS/MLDB	TL: ACES	C:MLDB	
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