

Chippewa Cree Tribal Water Resource Department

June 13, 2022

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U.S. Nuclear Regulatory Commission,

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Subject: Reply to a Notice of Violation: NRC INSPECTION REPORT 030-36626/2022-001

Ms. Roldan-Otero,

Below is the corrective action based on the 5 level IV violations issued on May 17, 2022, to the Chippewa Cree Construction Company, License No. 25-27780-01. The 5 level IV violations are:

1. Failure to update your license with the NRC to reflect a new RSO;
2. Failure to annually review your radiation safety program content and implementation;
3. Failure to have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position;
4. Failure to perform a physical inventory every six months to account for sources in a portable nuclear gauge device; and
5. Failure to perform a test for leakage and/or contamination when the portable nuclear gauge device was removed from storage.

Each violation is listed here, followed by the correction action in bold.

- A. License Condition 12 of NRC License No. 25-27780-01, Amendment No. 3, dated January 28, 2015, states that the Radiation Safety Officer (RSO) for this license is Dustin Sunchild.

Contrary to the above, from 2019 to March 2, 2022, the RSO was not Dustin Sunchild.

Specifically, in 2019 (exact date could not be established), Dustin Sunchild was not the RSO, and the RSO duties and responsibilities were being fulfilled by another qualified individual.

This is a Severity Level IV violation (NRC Enforcement Policy, Section 6.3.d.8).

During the March 14, 2022, on-site review, this violation was noted by Management, and immediate action was taken to request a License Amendment to change the RSO from Dustin Sunchild to Santana Wells. The License Amendment (Expiration Date – January 2025) was received and filed on March 30, 2022.

Another contributing factor to this violation is the change of people in positions. In this case, it was the RSO and Management. Also, when employees leave these positions, they do not take the appropriate actions necessary to remain in compliance, which is a lack of communication.

The likelihood of the RSO and Management departing from their positions simultaneously is doubtful. If either one should leave the department, the remaining individual will bring NRC compliance to the new employee's attention as soon as possible.

Management also reminded the RSO that it is his responsibility to notify NRC in writing when changes are made to the RSO or License. Both the Management and RSO are now knowledgeable of these rules, regulations, and responsibilities set out by NRC. Management is also responsible for ensuring that these and other NRC compliance issues are adhered to.

- B. 10 CFR 20.1101(c) requires the licensee to periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, from May 24, 2016, to March 2, 2022, the licensee failed to periodically (at least annually) review the radiation protection program content and implementation.

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

Both Management and the RSO were unaware that this activity had to be conducted at a minimum of annually, mainly due to a lack of knowledge and training.

Management and the RSO reviewed the Radiation Protection Program, for which information was gained from several internet sources. It is unknown if the Radiation Protection Program was ever reviewed as no documentation could be located. A record of this activity could not be located at the company.

Management and the RSO reviewed the Radiation Protection Program, and documentation of this activity is now logged in our files. The following review will be conducted on or before June 10, 2023. Proof of this action will be recorded in the company file. The responsibility for this action will fall on both the RSO and Management.

- C. License Condition 17 of NRC License No. 25-27780-01, Amendment No. 3, dated January 28, 2015, requires that each portable nuclear gauge 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 March 22, 2022, the licensee failed to have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. Specifically, a Troxler Electronic Laboratories Model 3440 portable nuclear gauge device containing an eight millicurie cesium-137 sealed source and a 40 millicurie americium-241/beryllium sealed source did not have a lock on the gauge or the gauge container, and the gauge was not under the direct surveillance of an authorized user.

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

During the on-site review conducted on March 14, 2022, it was noted that the portable nuclear gauge was not correctly locked at the time. Management provided the RSO with a new lock which he installed, creating a double locking system.

Management is relatively new to this position and was unaware that NRC requires him to be knowledgeable of the necessary compliance by NRC.

In addition, the portable nuclear gauge storage room now has a locking door to limit access into this area, and signs are posted on the door. A photo of properly locking the portable nuclear gauge is now published in the storage area next to the device.

Lack of knowledge, communication, and training were the key factors of this violation.

- D. License Condition 15 of NRC License No. 27780-01, Amendment No. 3, dated January 28, 2015, requires, in part, that the licensee conduct a physical inventory every six months to account for all sources and/or devices received and possessed by the licensee.

Contrary to the above, from 2018 to March 2, 2022, the licensee failed to conduct a physical inventory every six months to account for all sources and/or devices received and possessed by the licensee; specifically, in 2018, the licensee relocated a Troxler Electronic Laboratories Model 3440 portable nuclear gauge device, containing an eight millicurie cesium-137 sealed source and a 40 millicurie americium-124/beryllium sealed source, to a different storage location, and had not performed a physical inventory of the portable nuclear gauge device since it was relocated.

Management was unaware that a physical inventory must be conducted every six months to verify that the portable nuclear gauge still exists in the storage area.

Management and the RSO have developed a schedule that reminds them of when the following physical inventory is to be conducted, in which a semi-annual review will be conducted and recorded as part of NRC compliance. The following physical inventory will be completed on or before September 14, 2022.

Again, this is due to a lack of knowledge, communication, and training.

This is a Severity Level IV violation (NRC Enforcement Policy, Section 6.3.d.3).

- E. License Condition 13 of NRC license No. 25-2778001, Amendment No. 3 dated January 28, 2015, requires, in part, that sealed sources need not be tested if they are in storage and are not being used. However, when they are removed from storage for use or transferred to another person and have not been tested within the required leak test interval, they shall be tested before use of transfer. No sealed source shall be stored for more than ten years without being tested for leakage and/or contamination.

Contrary to the above, in 2017, 2017, and 2018, the licensee removed sealed sources from storage for use, and the sources had not been tested within the required leak test interval and were not tested before use. Specifically, the licensee possessed a Troxler Electronic Laboratories Model 3440 portable nuclear gauge device containing an eight millicurie cesium-137 sealed source and a 40 millicurie americium-241/beryllium sealed source, which was last tested for leakage and/or contamination on June 11, 2012, when it was initially placed in storage. On three occasions, the licensee removed the device from storage: (1) in 2016, the device was removed from storage used on a lagoon construction project; (2) in 2017, the device was removed from storage for performance testing and determined to improperly functioning; and (3) in 2018, the shed where the device was in storage was damaged in a wind storm; the device was relocated

from damaged storage shed to another storage area. The licensee failed to test the sealed sources in the device for leakage and/or contamination before any of these occasions and, as of March 2, 2022, had not performed any test for leakage and/or contamination since June 2012.

This is a Severity Level IV violation (NRC Enforcement Policy, Section 6.3.d.4).

Management and the RSO are now aware of this violation and have taken steps to get a leak test conducted. Management contacted QalTek twice to request a leak test be sent to our address. The leak test was received on May 16, 2022, for which the RSO and Management conducted the leak test, and Management mailed the sample back to QalTek for testing on the same day. As of this writing, Management has not received the Leak Test results. A phone call indicated that the company had received our test but were so backed up that it may take several weeks before results are emailed back.

Most of these violations resulted from a lack of awareness, knowledge, communication, and training. Reading through the numerous documents and internet sites and responding to these violations was a learning experience all on its own. Management and the RSO are now better prepared to remain in compliance.

This concludes our responses to the five violations. The Chippewa Cree Tribal Water Resources Department would like to thank the NRC for their guidance and Ms. Janine F. Katanic for the on-site review and her extensive knowledge.

If you should have any questions or need more information, please feel free to contact me.

Best regards.



Ted E. Whitford, Sr., Director - Chippewa Cree Tribal Water Resources Dept.

Chippewa Cree Construction Company

8608 Upper Box Elder Road

Box Elder, MT 59521

(406) 395-4225 Ext. 308

Cc:

Director, Division of Radiological Safety and Security

U.S. Nuclear Regulatory Commission Region IV

1600 E. Lamar Blvd

Arlington, TX 76011

Chippewa Cree Tribal Water Resource Department

16 Black Prairie Street
Box Elder, MT 59521

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Director, Division of Radiological Safety and Security
U.S. Nuclear Regulatory Commission Region IV
1600 E. Lamar Blvd
Arlington, TX 76011

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