



UNITED STATES
NUCLEAR REGULATORY COMMISSION

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

September 1, 2022

EA-22-068

Dr. Elizabeth Mackey, Chief Safety Officer
U.S. Department of Commerce
National Institute of Standards and Technology
100 Bureau Drive, Mail Stop 1730
Gaithersburg, MD 20899-1730

SUBJECT: NRC INSPECTION REPORT 030-38838/2022-001

Dear Dr. Mackey:

This letter refers to the announced routine inspection conducted on April 26, 2022, at your facility in Boulder, Colorado. The inspection was an examination of activities conducted under your license as they relate to public health and safety, to confirm compliance with the U.S. Nuclear Regulatory Commission (NRC) rules, regulations, and with the conditions of your license. Within these areas, the inspection consisted of a selected examination of procedures and representative records, observation of licensed activities, independent radiation measurements, and interviews with personnel. The inspector discussed the preliminary inspection findings with Manny Mejias and Patricia Retka, at the conclusion of the onsite portion of the inspection. A final telephonic exit briefing was conducted with you, Manny Mejias, and Patricia Retka on August 16, 2022.

Based on the results of this inspection, the NRC has determined that one violation of NRC requirements occurred. The violation involved the possession of legacy leak test samples which contained plutonium-239 and americium-241 material which was not authorized on NRC Materials License No. 05-03166-06 and contrary to the requirement of Title 10 of the *Code of Federal Regulations* (10 CFR) 30.3(a). This violation would normally be categorized as a Severity Level III and considered for escalated enforcement action. However, in reviewing the specific circumstances of this violation (i.e., the quantity of material, form of material, and considering all other safety/security requirements were met) the NRC determined that it is more appropriately categorized as a Severity Level IV violation. In addition, because the violation was identified and corrected by your staff, not repetitive, and not willful, it is being treated as a Non-Cited Violation (NCV), consistent with Section 2.3.2 of 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>.

If you contest the violation or significance of the NCV, you should provide a response within 30 days of the date of this letter, with the basis for your denial, to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington DC 20555-0001, with copies to: (1) the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 1600 E. Lamar Blvd., Arlington, TX 76011-4511; (2) the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; and (3) and emailed to Lizette.Roldan-Otero@nrc.gov.

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

Should you have any questions regarding this letter, please contact Allyce Bolger, at (817) 200-1197, or the undersigned at (817) 200-1455.

Sincerely,



Thompson, James signing on behalf
of Roldan-Otero, Lizette
on 09/01/22

Lizette Roldán-Otero, PhD, Chief
Materials Inspection Branch
Division of Radiological Safety and Security

Docket No. 030-38838
License No. 05-03166-06

cc:
James Grice, Manager
Colorado Dept. of Public Health and
Environment

NRC INSPECTION REPORT 030-38838/2022-001– DATED SEPTEMBER 1, 2022

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ADAMS ACCESSION NUMBER: **ML22243A242**

SUNSI Review: ADAMS: Non-Publicly Available and Sensitive
By: ABB Yes No Publicly Available and non-sensitive

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NAME	ABBolger	LRoldanOtero	JGroom			
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DATE	8/16/2022	09/01/2022	8/29/2022			

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