



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

November 17, 2022

Bryce Luke Jolley, P.E.  
Harper-Leavitt Engineering, Inc.  
800 West Judicial Street  
Blackfoot, ID 83221

SUBJECT: NRC INSPECTION REPORT 030-32220/2022-001; AND NOTICE OF VIOLATION

Dear Bryce Luke Jolley:

This letter refers to the unannounced routine inspection that began on October 24, 2022 at your facilities in Idaho Falls and Blackfoot, Idaho. 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's (NRC's) 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 inspectors discussed the inspection findings with you at the conclusion of the inspection on October 27, 2022.

Based on the results of this inspection, the NRC has determined that three Severity Level IV violations of NRC requirements occurred. The violations were evaluated in accordance with the NRC Enforcement Policy which can be found at the NRC's Web site at <https://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violations are cited in the enclosed Notice of Violation (Notice) because they were identified by the NRC during the inspection. The violations involved failures to: (1) conduct physical inventories at the required 6-month intervals; (2) block and brace a Class 7 (radioactive) material package during transport; and, (3) use a minimum of two independent physical controls to secure portable nuclear gauges when not under the constant surveillance of the licensee.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful in preparing your response. You can find the Information Notice on the NRC website at: <https://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>. Information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance will be (was) achieved should be addressed. The NRC review of your response to the Notice will also determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

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, 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 information, 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).

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 ADAMS, accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>.

Should you have any questions regarding this letter or the enclosed Notice, please contact James Thompson at (817) 200-1538, or the undersigned at (817) 200-1455.

Sincerely,



Signed by Roldan-Otero, Lizette  
on 11/17/22

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

License No. 11-27395-01

Docket No. 030-32220

Enclosure:  
Notice of Violation (Notice)

cc w/Enclosure:  
Mark Dietrich, PE, Technical Services Administrator  
Emergency Response Coordinator  
Idaho Department of Environmental Quality  
1410 N Hilton St  
Boise, ID 83706  
[mark.dietrich@deq.idaho.gov](mailto:mark.dietrich@deq.idaho.gov)

NRC INSPECTION 030-032220; AND NOTICE OF VIOLATION – DATED  
NOVEMBER 17, 2022

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## NOTICE OF VIOLATION

Harper-Leavitt Engineering, Inc.  
Blackfoot, Idaho

Docket No. 030-32220  
License No. 11-27395-01

During an NRC inspection that began on October 24, 2022, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. License Condition 16 of NRC license 11-27395-01, Amendment 9, issued July 29, 2022, requires, in part, that the licensee shall conduct a physical inventory every 6 months, or at other intervals approved by the U.S. Nuclear Regulatory Commission, to account for all sealed sources and/or devices received and possessed under the license.

Contrary to the above, as of the date of inspection on October 24, 2022, the licensee failed to conduct a physical inventory every 6 months, or at other intervals approved by the U.S. Nuclear Regulatory Commission, to account for all sealed sources and/or devices received and possessed under the license. Specifically, the licensee conducted a physical inventory on an annual basis for calendar years 2020 through 2022, periods which exceeded 6 months.

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

- B. 10 CFR 71.5(a) requires, in part, that a licensee who transports licensed material outside of the site of usage, as specified in the NRC license, or where transport is on public highways, comply with the applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR.

49 CFR 177.842(d) requires that packages containing Class 7 (radioactive) materials must be so blocked and braced that they cannot change position during conditions normally incident to transportation.

Contrary to the above, on October 24, 2022, the licensee transported Class 7 (radioactive) material in a package and failed to block and brace the package so that it could not change position during conditions normally incident to transportation. Specifically, the licensee transported a portable nuclear gauge on a public highway that was secured with a loose chain that allowed the portable gauge to move significantly while in transport.

This is a Severity Level IV violation (NRC Enforcement Policy, Section 6.8.d.5).

- C. 10 CFR 30.34(i) requires that each portable gauge licensee shall use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

Contrary to the above, on October 24, 2022, the licensee failed to use a minimum of two independent physical controls that formed tangible barriers to secure a portable gauge from unauthorized removal, whenever the portable gauge was not under the control and constant surveillance of the licensee. Specifically, the licensee was storing a Troxler Model 3430 portable gauge (serial number 31706) in a truck with only one physical

Enclosure

barrier, and no one was available to maintain control and constant surveillance of the portable gauge while it was being stored in the truck.

This is a Severity Level IV violation (NRC Enforcement Policy, Section 6.3.d.10).

Pursuant to 10 CFR 2.201, Harper-Leavitt Engineering, Inc. 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 Radiological Safety and Security, U.S. Nuclear Regulatory Commission Region IV, 1600 E. Lamar Blvd., Arlington, Texas 76011, and emailed to [Lizette.Roldan-Otero@nrc.gov](mailto:Lizette.Roldan-Otero@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; 030-32220/2022-001" 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 was or 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, the NRC may issue an order or a demand for information requiring you to explain why your license should not be modified, suspended, or revoked, or why the NRC should not take other action as may be proper. Consideration may be given to extending the response time for good cause shown.

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.

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>. Therefore, to the extent possible, the 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).

In accordance with 10 CFR 19.11, you may be required to post this Notice within 2 working days of receipt.

Dated this 17th day of November 2022