



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

August 10, 2023

EA-23-061

Cole Morehead, Chief Executive Officer  
XCEL NDT, LLC  
13624 South 220<sup>th</sup> Street, Suite #2  
Gretna, NE 68028

SUBJECT: XCEL NDT, LLC - NRC INSPECTION REPORT 030-39171/2022-001

Dear Cole Morehead:

This letter refers to the announced reactive inspection conducted from November 30 to December 1, 2022, at your facility in Greeley, Colorado, with continued in-office review through July 19, 2023. The inspection was conducted in response to a reportable event involving the theft of a company vehicle that occurred at a temporary job site in Billings, Montana on November 14, 2022 (Event Notification 56222). The vehicle contained a category 2 quantity of radioactive material when it was stolen. Preliminary inspection findings were discussed with you and members of your staff at the conclusion of the on-site portion of the inspection on December 1, 2022. A final exit briefing was conducted with you telephonically on July 19, 2023. The enclosed report presents the results of this inspection.

Based on the results of this inspection, three apparent violations were identified and are being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included at the NRC website at <https://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violations involved three failures related to NRC's security requirements in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 37.

The circumstances surrounding these apparent violations, the significance of the issues, and the need for lasting and effective corrective action were discussed with you and members of your staff during the telephonic exit meeting on July 19, 2023.

Before the NRC makes its enforcement decision, we are providing you an opportunity to: (1) request a predecisional enforcement conference (PEC), or (2) request alternative dispute resolution (ADR) mediation. If a PEC is held, the NRC may issue a press release to announce the time and date of the conference; however, the PEC will be closed to public observation since Security-Related Information will be discussed. Please contact Dr. Lizette Roldan-Otero

**The Enclosure contains Sensitive  
Unclassified Non-Safeguards Information.  
When separated from the Enclosure, this  
cover letter is decontrolled.**

C. Morehead

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at 817-200-1455 within 10 days of the date of this letter to notify the NRC of your intended response to either participate in a PEC or pursue ADR. A PEC should be held within 30 days and an ADR session within 45 days of the date of this letter.

If you choose to request a PEC, the conference will afford you the opportunity to provide your perspective on these matters and any other information that you believe the NRC should take into consideration before making an enforcement decision. The decision to hold a PEC does not mean that the NRC has determined that a violation has occurred or that enforcement action will be taken. This conference would be conducted to obtain information to assist the NRC in making an enforcement decision. The topics discussed during the conference may include information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned. In presenting your corrective action, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violations.

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 using the NRC's Agencywide Documents Access and Management System (ADAMS) Accession No. ML061240509.

In lieu of a PEC, you may request ADR with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral third-party mediator works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's ADR program can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third-party. Please contact ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.

In addition, please be advised that the number and characterization of apparent violations described in the enclosed inspection report may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter will be made available electronically for public inspection in the NRC Public Document Room or from the ADAMS, accessible from the NRC public website at <http://www.nrc.gov/reading-rm/adams.html>. However, the Enclosure to this letter contains Security-Related Information, and its disclosure to unauthorized individuals could present a security vulnerability. Therefore, in accordance with 10 CFR 2.390(d)(1), the Enclosure will not be made available electronically for public inspection in the NRC Public Document Room or from the NRC's ADAMS.

C. Morehead

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If you have any questions concerning this matter, please contact Dr. Lizette Roldan-Otero of my staff at 817-200-1455.

Sincerely,



Rivera-Varona, Aida signing on behalf  
of Miller, Geoffrey  
on 08/10/23

Geoffrey B. Miller, Director (Acting)  
Division of Radiological Safety and Security

Docket No. 030-39171  
License No. 15-35544-01

Enclosure:  
NRC Inspection Report 030-39171/2022-001

cc w/enclosure:  
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