



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

September 05, 2023

EA-23-098

Pierre-Luc Juteau, General Manager
U.S. Ecology at Grand View
20400 Lemley Rd.
Grand View, ID 83624

SUBJECT: U.S. ECOLOGY, NRC INVESTIGATION REPORT 4-2022-015 AND EXERCISE
OF ENFORCEMENT DISCRETION

Dear Pierre-Luc Juteau:

This refers to an investigation conducted by the U.S. Nuclear Regulatory Commission's (NRC's) Office of Investigations regarding activities at U.S. Ecology, Idaho (U.S. Ecology). The Office of Investigations initiated the investigation to determine whether U.S. Ecology deliberately accepted licensed material (tritium gun sight components) without having a license to do so. The licensed material was transferred to U.S. Ecology by Philotechnics, a State of Tennessee licensee.

Based on the evidence developed during the investigation, the concern that U.S. Ecology deliberately accepted licensed material without having a license to do so was not substantiated. The NRC plans no further action related to the deliberate aspects of the allegation and considers this investigation closed.

Although not deliberate, our review of Investigation 4-2022-015 did result in the identification of a violation of NRC requirements. Specifically, Title 10 of the *Code of Federal Regulations* (10 CFR) 30.3(a), "Activities Requiring License," requires, in part, that except for persons exempted, no person shall receive or possess byproduct material except as authorized by a specific or general license issued in accordance with 10 CFR Chapter I. Contrary to the above, on June 4, 2019, U.S. Ecology received and possessed byproduct material without authorization under a specific or general license issued in accordance with the regulations in 10 CFR Chapter I and was not exempt from the requirements for a license. Specifically, U.S. Ecology accepted approximately 117.7 curies of tritium consisting of 202 100-millicurie (mCi) lamps attached to green fiber optics, 75 100-mCi lamps attached to red fiber optics, 252 250-mCi lamps attached to red fiber optics, and 108 250-mCi lamps.

Violations of 10 CFR 30.3(a) are normally characterized as a Severity Level III violation in accordance with Section 6.3.c.11 of the NRC Enforcement Policy. The NRC Enforcement Policy can be found on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

However, the NRC reviewed the circumstances surrounding the transfer of licensed material to U.S. Ecology and determined that the violation of 10 CFR 30.3(a) described above resulted from matters not entirely within your control. Specifically, the shipping manifest that transferred custody of these materials to U.S. Ecology incorrectly characterized the shipment as only containing items exempt under 10 CFR 30.19, "Self-luminous products containing tritium, krypton-85, or promethium-147," and did not itemize the loose tritium gun sight subcomponents that required a license. Further, the NRC found that U.S. Ecology has adequate material receipt inspection procedures that if properly implemented would reasonably be expected to allow personnel to identify non-exempt material absent the special circumstances associated with this case. Based on these facts, I have been authorized, in consultation with the Director, Office of Enforcement, to exercise enforcement discretion in accordance with Section 3.5, "Violations Involving Special Circumstances," of the NRC Enforcement Policy and refrain from issuing an enforcement action for the violation of 10 CFR 30.3(a).

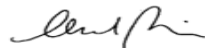
No further action or response is required on your part unless the description in this letter does not accurately reflect the facts, your actions, or your situation. In that case, or if you choose to respond, clearly mark your response as a "Reply to Exercise of Enforcement Discretion, EA-23-098," and send it to the Director, Division of Radiological Safety and Security, U.S. Nuclear Regulatory Commission, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511, and email it to R4Enforcement@nrc.gov within 30 days of the date of this letter.

You should note that final NRC documents may be made available to the public under the Freedom of Information Act subject to redaction of information pursuant to the Freedom of Information Act. Requests under the Freedom of Information Act should be made in accordance with 10 CFR 9.23, "Requests for Records." Information is accessible from the NRC's website at <http://www.nrc.gov/reading-rm/foia/foia-request.html#how>.

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 in the NRC's 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 regarding this matter, please contact Neil O'Keefe, Chief, Materials Licensing Branch, at 817-200-1156.

Sincerely,



Rivera-Varona, Aida signing on behalf
of Miller, Geoffrey
on 09/05/23

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

U.S. ECOLOGY, NRC INVESTIGATION REPORT 4-2022-015 AND EXERCISE OF ENFORCEMENT DISCRETION - DATED SEPTEMBER 05, 2023

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