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January 8, 2024

US Nuclear Regulatory Commission  
Director, Division of Radiological Safety & Security, Region IV  
1600 East Lamar Boulevard, Arlington, TX 76011

Attention: Tamara Bloomer

Subject: Response to Apparent Violations in  
NRC Inspection Report 150-00005/2023-001; EA-23-136

Dear Director Bloomer,

North American Testing has received the NRC Inspection Report #150-00005/2023-001 dated December 13, 2023. We understand the NRC performed an inspection of NAT portable gauge operations on June 28, 2023 at Buckley Space Force Base, Aurora, Colorado. Per the inspection report an apparent violation was noted. Our response and corrective action to the violation is the subject of this letter.

At the time of the inspection NAT had a current NRC Form 241 in effect for Buckley SFB. As noted in the inspection report Section 2.2, the inspection noted "No performance issues associated with the use, storage, or transportation of the portable nuclear gauge was identified." The general focus of the violation is relative to the use of radioactive materials in areas of exclusive federal jurisdiction. Section 2.2 also notes that portable gauges were used a few days prior to the Buckley SFB Form 241 being in effect on April, 26, 2023. In addition, the report indicates that NAT has used portable gauges at Ft Carson Army Base Colorado Springs, CO during CY 2023.

As noted, our office did apply for a reciprocity Form 241 permit for Buckley AFB which was in effect April, 26, 2023. Unfortunately, a portable gauge was inadvertently sent for use at Buckley on three (3) instances prior to this date, April 14 & 18 & 19, 2023 for about a thirty minute to one hour interval each day to perform soil testing. These were the only instances of use prior to the reciprocity permit being in-place. The total usage dates for Buckley SFB for CY 2023 are attached as Fig 1.

This office had been in contact with representatives at Ft Carson Military Installation in early CY 2023. We attempted to determine the correct course of action for utilizing portable gauges on the base. Base representatives issued this office permits for use of portable gauges without mention of requiring reciprocity Form 241. As noted, in the inspection letter, this is erroneous as the Fort Carson Office of the Staff Advocate has indicated the base is an area of exclusive federal jurisdiction. When this office became aware of the necessity for reciprocity, we did apply for and receive the appropriate Form 241 for portable gauge use at Ft Carson, CO. In addition, we did prepare a list of days for CY 2023 when a portable gauge was used at Ft Carson prior to the Form 241 reciprocity being in effect as well as the total for CY 2023, this is attached as Fig 2.

We understand that the responsibility of determining exclusive federal jurisdiction falls with the Licensee. The determination of exclusive federal jurisdiction can be complicated. Our office will review NUREG-1556, Vol. 19, Rev. 1, "Guidance for Agreement State Licensees About NRC Form 241 "Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters" and Guidance for NRC Licensees Proposing to Work in Agreement State Jurisdiction (Reciprocity)," to assist in evaluating any future areas which may have the possibility of being an area of exclusive federal jurisdiction.

At present, we anticipate using portable gauges at Ft Carson, CO and have an active Form 241 reciprocity valid for CY 2024. We also anticipate needing to utilize portable gauges at Buckley Space Force Base in CY 2024. We will be submitting for an updated Form 241 reciprocity for this location as well. As of this date we are not using portable gauges at BSFB due to cold weather slowing construction, however, we will be submitting for reciprocity within the month of January, in the event there may be any chance a portable gauge may be necessary for use at this location.

In order to alleviate the possibility of inadvertently using portable gauges in areas of exclusive federal jurisdiction we intend to apply for a full NRC permit during CY 2024. We anticipate this will negate the need for Form 241 reciprocity at each location of exclusive federal jurisdiction beyond areas where our Colorado State License would be applicable.

We understand our error in not verifying Ft Carson, CO as a specific area of exclusive federal jurisdiction. When we became aware of the situation, we did immediately file for an NRC form 241 reciprocity. As noted in the inspection report, the field inspection did not find any violations with the usage and storage of the portable gauges. We do strive to maintain a high level radiation program associated with portable gauges. Going forward we will have appropriate reciprocity in-place for each area of federal jurisdiction. In addition, we also intend to apply for a NRC permit in CY 2024 to reduce the chance a portable gauge could be used in any area of exclusive federal jurisdiction.

Thank you for the opportunity to provide this response to NRC Inspection Report 150-00005/2023-001. If you have any questions or require any further information please contact this office at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Erik J. Forster', with a large, sweeping flourish extending to the right.

Erik J. Forster  
Vice President  
North American Testing, Inc.

## Gauge Dates 2023 : BSFB

JBI: 6th Ave. Barriers	Olgoonik: Bldg 1 Slurry Seal	Olgoonik: Storm Pond Repair
Date 04/14/23	Date 07/17/23	Date 09/20/23
04/18/23	07/18/23	11/22/23
04/19/23	07/19/23	11/29/23
05/03/23	07/21/23	11/30/23
05/08/23	07/27/23	12/07/23
06/20/23	07/28/23	12/08/23
06/21/23	07/31/23	12/19/23
06/23/23	08/01/23	12/20/23
06/26/23	08/07/23	
06/28/23	08/08/23	8
07/12/23	08/10/23	
07/19/23	08/11/23	
09/08/23	08/15/23	
09/19/23		
09/20/23	13	
10/31/23		
11/21/23		
17		
<p>*duplicate days at adjacent construction site locations, counted for 1 usage day at Buckley Space Force Base, CO location</p>		
Total Usage Days=		36

Fig 1

