

NRC FORM 591M
(04-2022)

U.S. NUCLEAR REGULATORY COMMISSION

Materials Inspection Report

1. Licensee/Location Inspected:

Bisti Fuels Company, LLC
Navajo Mine Areas 3 and 4N
300 County Road 4104
Fruitland, NM 87416

Report Number(s) 2024-001

2. NRC/Regional Office

Region IV
U. S. Nuclear Regulatory Commission
1600 E. Lamar Boulevard
Arlington, TX 76011-4511

3. Docket Number(s)

030-39065

4. License Number(s)

42-35441-01

5. Date(s) of Inspection

August 2, 2024

LICENSEE:

The inspection was an examination of the activities conducted under your license as they relate to radiation safety and to compliance with the Nuclear Regulatory Commission (NRC) rules and regulations and the conditions of your license. The inspection consisted of selective examinations of procedures and representative records, interviews with personnel, and observations by the inspector. The inspection findings are as follows:

- ☐ 1. Based on the inspection findings, no violations were identified.
- ☐ 2. Previous violation(s) closed.
- ☒ 3. During this inspection, certain of your activities, as described below and/or attached, were in violation of NRC requirements, and were assessed at Severity Level IV, in accordance with the NRC Enforcement Policy.
- A. The violation(s), specifically described to you by the inspector as non-cited violations, are not being cited because they were self-identified, non-repetitive, corrective action was or is being taken, and the remaining criteria in the NRC Enforcement Policy were satisfied.
(Non-cited violation(s) was/were discussed involving the following requirement(s))

- B. The following violation(s) is/are being cited in accordance with NRC Enforcement Policy. This form is a NOTICE OF VIOLATION, which may be subject to posting in accordance with 10 CFR 19.11.
(Violations and Corrective Actions)

A. License Condition 24 of NRC License No. 42-35441-01, Amendment No. 3, dated February 1, 2024, requires, in part, that the licensee shall conduct its program in accordance with the statements, representations, and procedures contained in the documents, including any enclosures listed in the license.

(Continued next page)

Statement of Corrective Actions

I hereby state that, within 30 days, the actions described by me to the Inspector will be taken to correct the violations identified. This statement of corrective actions is made in accordance with the requirements of 10 CFR 2.201 (corrective steps already taken, corrective steps which will be taken, date when full compliance will be achieved). I understand that no further written response to NRC will be required, unless specifically requested.

TITLE	PRINTED NAME	SIGNATURE AND DATE
LICENSEE'S REPRESENTATIVE	Shawn Woods	 9/18/24
NRC INSPECTOR	Janine F. Katanic, PhD, CHP	JANINE KATANIC <small>Digitally signed by JANINE KATANIC Date: 2024.09.12 12:22:46 -05'00'</small>
BRANCH CHIEF	Lizette Roldan-Otero, PhD	LIZETTE ROLDAN-OTERO <small>Digitally signed by LIZETTE ROLDAN-OTERO Date: 2024.10.03 15:44:10 -05'00'</small>

Add Continuation Page

Materials Inspection Report (Continued)

Letter dated September 26, 2017, with enclosures, "Bisti Fuels Company Operating, Radiation Safety and Emergency Procedures Manual," Item 9.2, Source Security, states, in part, that to provide two physical controls while in storage, and the sources and gauges are stored in a locked fence area and that secondarily the radioactive sources are located in a locked cabinet.

Contrary to the above, on August 2, 2024, the licensee failed to conduct its program in accordance with the statements, representations, and procedures contained in the documents, including any enclosures, listed in the license. Specifically, the licensee stored the sources and gauges in a locked fenced area but failed to secondarily store the radioactive sources (gauges) in a locked cabinet.

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

As a corrective action, for the sources and gauges that were not in use and therefore being stored, the licensee installed a lock on the cabinet. The locked cabinet is located within the locked fenced area.

B. License Condition 16. A. of NRC License No. 42-35441-01, Amendment Nos. 1, 2, and 3, requires, in part, that each gauge shall be tested for the proper operation of the on-off mechanism (shutter) and indicator at intervals not to exceed 6 months.

License Condition 16. B. of NRC License No. 42-35441-01, Amendment Nos. 1, 2, and 3, requires, in part, that the requirement does not apply to gauges that are stored, not being used, and have the shutter lock mechanism in a locked position.

Contrary to the above, from September 18, 2018, through August 2, 2024, the licensee failed to follow License Conditions 16.A. and 16.B. as evidenced by the following two examples:

1. Specifically, gauges that were installed on operating surface miners were not tested for the proper operation of the on-off mechanism (shutter) and indicator at intervals not to exceed 6 months.
2. Specifically, gauges that were stored and not being used did not have the shutter lock mechanism in a locked position and were not tested for the proper operation of the on off mechanism (shutter) and indicator at intervals not to exceed 6 months.

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

As corrective actions for the gauges installed on the operating surface miners, the licensee revised processes to include that whenever a surface miner is undergoing a Level 2 Preventative Maintenance, the proper operation of the on-off mechanism of the installed gauges will be tested for proper operation and documented. A review of the maintenance record will be performed by licensee personnel to assure that the on-off mechanisms were tested and that this was documented as a part of the maintenance activity. The Radiation Safety Officer (RSO) will be notified of the results of the testing and take any actions as appropriate if the on-off mechanisms do not operate properly. The RSO will maintain a tracking log of the dates of the testing to assure that the 6 month testing frequency is achieved.

As corrective actions for the gauges that were stored and not being used, the licensee installed a lock on each gauge such that the shutter was in the locked (off) position, such that these gauges could be exempted from the periodic test unless they are removed for use.

From: [Janine Katanic](#)
To: [Shawn Woods](#); [Mark Martinez](#)
Cc: [Dacia Jacquez](#); [Megan R. Harrison](#); [Andrea True](#)
Subject: RE: Re: NRC Inspection report/ Bisti Fuels Company
Date: Wednesday, September 18, 2024 1:40:00 PM

Shawn and Mark,

Thank you. This concludes the NRC inspection. Don't hesitate to reach out.

Regards,
Janine

Janine F. Katanic, PhD, CHP
Senior Health Physicist
Materials Inspection Branch
Division of Radiological Safety and Security
US Nuclear Regulatory Commission
Region IV
office: 817-200-1151
email: Janine.Katanic@nrc.gov

From: Shawn Woods <Shawn.Woods@NavEnergy.com>
Sent: Wednesday, September 18, 2024 8:19 AM
To: Mark Martinez <Mark.Martinez@NavEnergy.com>; Janine Katanic <Janine.Katanic@nrc.gov>
Cc: Dacia Jacquez <Dacia.Jacquez@NavEnergy.com>; Megan R. Harrison <Megan.Harrison@NavEnergy.com>; Andrea True <Andrea.True@nrc.gov>
Subject: [External_Sender] Re: NRC Inspection report/ Bisti Fuels Company

Janine;

Attached is a signed document. Any questions, please let use know?

Thanks
Shawn

From: Mark Martinez <Mark.Martinez@NavEnergy.com>
Sent: Tuesday, September 17, 2024 8:50 AM
To: Janine Katanic <Janine.Katanic@nrc.gov>; Shawn Woods <Shawn.Woods@NavEnergy.com>
Cc: Dacia Jacquez <Dacia.Jacquez@NavEnergy.com>; Megan R. Harrison <Megan.Harrison@NavEnergy.com>; Andrea True <Andrea.True@nrc.gov>
Subject: RE: NRC Inspection report/ Bisti Fuels Company

Hello Janine,

Sorry for the delay, but you should be seeing that today or tomorrow. We needed to have one more review with the GM so that he understood the findings and what we have in place to address.

Mark Martinez

From: Janine Katanic <Janine.Katanic@nrc.gov>
Sent: Tuesday, September 17, 2024 8:45 AM
To: Mark Martinez <Mark.Martinez@NavEnergy.com>; Shawn Woods <Shawn.Woods@NavEnergy.com>
Cc: Dacia Jacquez <Dacia.Jacquez@NavEnergy.com>; Megan R. Harrison <Megan.Harrison@NavEnergy.com>; Andrea True <Andrea.True@nrc.gov>
Subject: RE: NRC Inspection report/ Bisti Fuels Company

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or correspond with the sender unless you recognize the sender and know the content is safe.

Hi Mark,

When will you be able to return the signed NRC Form 591M?

Regards,
Janine

Janine F. Katanic, PhD, CHP
Senior Health Physicist
Materials Inspection Branch
Division of Radiological Safety and Security
US Nuclear Regulatory Commission
Region IV
office: 817-200-1151
email: Janine.Katanic@nrc.gov

From: Janine Katanic
Sent: Thursday, September 12, 2024 12:31 PM
To: Mark Martinez <Mark.Martinez@NavEnergy.com>; Shawn Woods <Shawn.Woods@NavEnergy.com>
Cc: Dacia Jacquez <Dacia.Jacquez@NavEnergy.com>; Megan R. Harrison <Megan.Harrison@NavEnergy.com>; Andrea True <Andrea.True@nrc.gov>
Subject: NRC Inspection report/ Bisti Fuels Company

All,

Thank you for your time today discussing the results of NRC's inspection of Bisti Fuels Company. Attached is the NRC Form 591M indicating the two violations that were identified and the corrective actions that have been or will be performed. Please review and let me know if you have any questions. If you have no questions, a member of licensee management can indicate their name on the bottom of the form and sign/date and return to me. That action will conclude the NRC inspection. Please retain a copy of the signed NRC Form 591M for your records as that is the Official Agency Record – no hard copy will be provided.

Regards,
Janine

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Materials Inspection Branch
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