



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

November 15, 2022

EA-22-044

Christian Patterson
Commander
Department of the Army
Corps of Engineers
3909 Halls Ferry Road
Vicksburg, MS 39180

SUBJECT: DEPARTMENT OF THE ARMY, CORPS OF ENGINEERS - NOTICE OF VIOLATION, NRC INSPECTION REPORT 030-05062/2021-001

Dear Colonel Patterson:

This letter refers to the announced routine inspection conducted on October 19, 2021, at your facility in Vicksburg, Mississippi, with continued in-office review through June 16, 2022. The purpose of the inspection was to examine activities conducted under your license as they relate to public health and safety, to confirm compliance with the U.S. Nuclear Regulatory Commission (NRC) rules, regulations, and with the conditions of your license. A final exit briefing was conducted telephonically with you on August 9, 2022. Details of the inspection and one apparent violation were provided to you in the subject inspection report, dated August 22, 2022, Agencywide Documents Access and Management System (ADAMS) Accession No. ML22230D070.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation by either attending a predecisional enforcement conference, requesting alternative dispute resolution, or providing a written response before we made our final enforcement decision. In a letter dated September 14, 2022 (ML22269A357), you provided a written response to the apparent violation.

Based on the information developed during the inspection and the information you provided in your September 14, 2022, written response to the inspection report, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice), and the circumstances surrounding the violation are described in detail in the subject inspection report. The violation involved the failure to name a qualified individual as the Radiation Safety Officer (RSO) on NRC Materials License 23-01544-10. Specifically, an individual was appointed to replace the named RSO who retired in January 2021. An NRC license amendment request to change the named RSO was not submitted until after the NRC inspection in October 2021. The NRC performed a review of the replacement RSO's qualifications in the license amendment request and determined that the individual did not have adequate experience to be listed as RSO on the license. After the individual gained the necessary experience, the NRC amended the license to name the qualified RSO on June 16, 2022 (ML22167A197).

The NRC considered the violation to be significant because the NRC relies on the named and qualified RSO to oversee licensed activities and to maintain communication with the NRC about the licensed program. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III. The Enforcement Policy can be found on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$8,000 is considered for a Severity Level III violation.

Because your facility has not been the subject of an escalated enforcement action within the last two routine inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the NRC Enforcement Policy. The NRC has determined that *Corrective Action* credit is warranted based on the prompt and comprehensive corrective actions you implemented. Your corrective actions to address the violation are documented in NRC Inspection Report 030-05062/2021-001 and in your letter dated September 14, 2022.

Therefore, to encourage prompt and comprehensive correction of violations and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding: (1) the reason for the violation; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in NRC Inspection Report 030-05062/2021-001 and in your letter dated September 14, 2022. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter, the enclosure, 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. The NRC also includes significant enforcement actions on its website at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

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

Sincerely,



Monninger, John signing on behalf
of Morris, Scott
on 11/15/22

Scott A. Morris
Regional Administrator

Docket No. 030-05062
License No. 23-01544-10

Enclosure:
Notice of Violation

cc w/enclosure:
Ronald Rogers, Director
Division of Radiological Health
Mississippi State Department of Health
3150 Lawson Street, P.O. Box 1700
Jackson, MS 39215-1700

DEPARTMENT OF THE ARMY, CORPS OF ENGINEERS - NOTICE OF VIOLATION, NRC
INSPECTION REPORT 030-05062/2021-001 - DATED NOVEMBER 15, 2022

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ADAMS: **ML22314A080**

SUNSI Review By: JGK		ADAMS <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Publicly Available <input type="checkbox"/> Non-Publicly Available		<input checked="" type="checkbox"/> Non-Sensitive <input type="checkbox"/> Sensitive	Keyword:
OFFICE	SES:ACES	C:MIB	TL:ACES	RC	NMSS	OE
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OFFICE	D:DRSS	RA				
NAME	MMuessle	SMorris				
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DATE	11/15/22	11/15/22				

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Department of the Army
Corps of Engineers
Vicksburg, Mississippi

Docket No. 030-05062
License No. 23-01544-10
EA-22-044

During an NRC inspection and in-office review conducted from October 19, 2021, to June 16, 2022, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

License Condition 11.C of NRC License 23-01544-10, Amendment 31, listed a qualified individual as the named Radiation Safety Officer (RSO).

Contrary to the above, from January 1, 2021, to June 16, 2022, the licensee failed to have a qualified individual as the named RSO in License Condition 11.C of NRC License 23-01544-10, Amendment 31. Specifically, an individual was appointed to replace the named RSO who retired on January 1, 2021. An NRC license amendment request to change the named RSO was not submitted until after the NRC inspection in October 2021. The NRC performed a review of the replacement RSO's qualifications in the license amendment request and determined that the individual did not have adequate experience to be listed as RSO on the license. After the individual gained the necessary experience, the license was amended to name the qualified RSO on June 16, 2022.

This is a Severity Level III violation (NRC Enforcement Policy Section 6.3.c.11.(d)).

The NRC has concluded that information regarding: (1) the reason for the violation; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in NRC Inspection Report 030-05062/2021-001 and in your letter dated September 14, 2022.

However, if the description therein does not accurately reflect your position or your corrective actions, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 within 30 days of the date of the letter transmitting this Notice of Violation. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation; EA-22-044," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511, and email it to R4Enforcement@nrc.gov.

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, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, 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.

Enclosure

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 that such material is withheld from public disclosure, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim (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).

Dated this 15th day of November 2022