



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

June 28, 2012

Warren Burse, Radiation Safety Officer  
C & W Enterprises, Inc.  
P.O. Box 542  
Harrisburg, South Dakota 57032

SUBJECT: NRC INSPECTION REPORT 030-30526/2012-001 AND NOTICE OF VIOLATION

Dear Mr. Burse:

This refers to the inspection conducted on June 4, 2012, at your office in Harrisburg, South Dakota, and your storage location in Sioux Falls, South Dakota, with continued NRC in-office review through June 21, 2012. The inspection was an examination of activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations and with the conditions of your license. Within these areas, the inspection consisted of selected examination of procedures and representative records and interviews with personnel. A preliminary exit briefing was conducted with you by telephone at the conclusion of the onsite portion of the inspection on June 4, 2012. A final telephonic exit briefing was conducted with you on June 21, 2012.

Based on the results of this inspection, the NRC has determined that a Severity Level IV violation of NRC requirements occurred. The violation involved a failure to notify the NRC and begin decommissioning after no principal activities were conducted under the license for a period of 24 months. This violation was evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/About-NRC/regulatory/enforcement/enforce-pol.html>. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the Notice. The violation is being cited in the Notice because it was identified by the NRC during the inspection. As corrective action for the violation, you stated that you intend to transfer your gauge to an authorized recipient and then terminate your NRC license.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice and the guidance described above when preparing your response. For your consideration and convenience, an excerpt from NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," is enclosed. If

you have additional information that you believe the NRC should consider, you may provide it in your response to the Notice. The NRC review of your response to the Notice will also determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its Enclosure, and your response, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site 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 concerning this inspection, please contact Mr. Jason Razo at (817) 200-1589 or the undersigned at (817) 200-1130.

Sincerely,

***/RA Anthony D. Gaines for/***

G. Michael Vasquez, Chief  
Nuclear Materials Safety Branch A

Docket: 030-30526  
License: 40-26938-01

Enclosures:  
(1) Notice of Violation (Notice)  
(2) NRC Information Notice 96-28

cc with Enclosure (1)  
South Dakota Radiation Control Program Director

## Internal distribution:

E. Collins  
 A. Howell  
 A. Vogel  
 V. Campbell  
 G. Vasquez  
 R4DNMS\_MSB-A

## Hard copy:

RIV Materials Docket File  
 DNMS Secretarial Area

S:\DNMS\!NMIB\!Razo\Inspections\south dakota\2012-06\C&W CL\_NOV\_IR-2012-001.docx

FINAL: R:\\_DNMS\

ADAMS	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> SUNSI Review Complete		Reviewer Initials: JMR
<input checked="" type="checkbox"/> Publicly Available		<input type="checkbox"/> Non-publicly Available		<input type="checkbox"/> Sensitive	<input checked="" type="checkbox"/> Non-sensitive
RIV:NMSB-A	C:NMSB-A				
JMRazo	GMVasquez				
/RA/	/RA ADG for/				
06/27/2012	06/28/2012				

OFFICIAL RECORD COPY

T=Telephone

E=E-mail

F=Fax

## NOTICE OF VIOLATION

C & W Enterprises, Inc.  
Harrisburg, South Dakota

Docket: 030-30526  
License: 40-26938-01

During an NRC inspection conducted on June 4, 2012, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 30.36(d) requires, in part, that licensees provide notification to the NRC in writing within 60 days of any of the following occurrences:

- (1) The license has expired,
- (2) The licensee has decided to permanently cease principal activities at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with NRC requirements,
- (3) No principal activities under the license have been conducted for a period of 24 months, or
- (4) No principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with NRC requirements.

Contrary to the above, as of June 4, 2012, no principal activities under the license have been conducted for a period of 24 months and the licensee failed to notify the NRC in writing within 60 days of this occurrence. Specifically, no principal activities have been conducted since August 2008, a period greater than 24 months, and the licensee did not provide notification to the NRC within 60 days.

This is a Severity Level IV violation (Section 6.3).

Pursuant to the provisions of 10 CFR 2.201, C & W Enterprises, Inc. is hereby required to submit a written statement or explanation within 30 days of the date of the letter transmitting this Notice of Violation (Notice) to:

U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555-0001

with a copy to:

U.S. Nuclear Regulatory Commission  
ATTN: Regional Administrator  
1600 E. Lamar Blvd.  
Arlington, TX 76011-4511

Enclosure

This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for the violation:

- 1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level,
- 2) the corrective steps that have been taken and the results achieved,
- 3) the corrective steps that will be taken, and
- 4) the date when full compliance was, or will be, achieved.

Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to:

Director, Office of Enforcement  
United States Nuclear Regulatory Commission  
Washington, DC 20555-0001.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>, to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. 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 withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (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).

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 28<sup>th</sup> day of June 2012