



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION IV
1600 E. LAMAR BLVD
ARLINGTON, TX 76011-4511

February 2, 2018

Mr. Andrew Strike
General Manager
Lowham Walsh, LLC
205 South Third Street
Lander, WY 82520

SUBJECT: CLOSURE OF INVESTIGATION (OI 4-2016-029) AND NOTICE OF VIOLATION

Dear Mr. Strike:

This refers to an investigation conducted by the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) regarding allegations involving Lowham Walsh, LLC. OI initiated the investigation to determine whether Lowham Walsh personnel willfully failed to verify if William H. Smith and Associates, Inc., were authorized for receipt of the type, form, and quantity of byproduct material received before making the transfer of that byproduct material to William H. Smith and Associates, Inc.

Based on the evidence developed during the investigation, the allegation that Lowham Walsh, LLC, personnel willfully failed to verify that W. H. Smith and Associates, Inc., was authorized for receipt of the type, form, and quantity of byproduct material received before making the transfer of the material to William H. Smith and Associates, Inc. was not substantiated. The NRC plans no further action related to the willful aspect of this allegation and considers this investigation closed.

During the staff's review of this investigation, a non-willful Severity Level IV violation of Lowham Walsh's NRC license was identified. The violation was evaluated in accordance with the NRC Enforcement Policy, which can be found at 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) because it was identified by the NRC during the investigation. The violation involved the failure to amend your license to include a field office location, from which a portable gauge was used, stored, and dispatched to more than one temporary job site.

The NRC has concluded that information regarding the reason for the violation, the corrective actions that have been taken and the results achieved, and the date when full compliance was achieved is already adequately addressed on the docket. Specifically, NRC letter dated February 15, 2017 terminated your radioactive material license based on all radioactive material having been appropriately transferred to William H. Smith and Associates, Inc. under License Number 49-35308-01. Therefore, you are not required to respond to this letter unless the description herein 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.

You should note that the final OI investigation 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 Title 10 of the *Code of Federal Regulation* (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 will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

/RA/

Michael C. Hay, Chief
Materials Licensing and Inspection Branch
Division of Nuclear Materials Safety

Docket No. 030-37583
License No. 49-29279-01

Enclosure:
Notice of Violation

NOTICE OF VIOLATION

Lowham Walsh, LLC
Lander, Wyoming

Docket No. 030-37583
License No. 49-29279-01

During an NRC investigation conducted from October 10, 2016, to December 14, 2017, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

License Condition 10.A. of NRC materials license 49-29279-01 requires that licensed material may be used or stored only at the licensee's facilities located at 205 South Third Street, Lander, Wyoming.

Contrary to the above, between June 22, 2016, and September 29, 2016, licensed material was used or stored at a location other than the licensee's facilities located at 205 South Third Street, Lander, Wyoming. Specifically, a licensed portable nuclear gauge was dispatched to more than one temporary job site from an office location in Green River, Wyoming, without listing that office location on the license as a field station.

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

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket. Specifically, NRC letter dated February 15, 2017 terminated your radioactive material license based on all radioactive material having been appropriately transferred to William H. Smith and Associates, Inc. under License Number 49-35308-01. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation" 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, Region IV, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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 Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.]

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

Dated this 2nd day of February 2018

Enclosure

CLOSURE OF INVESTIGATION (OI 4-2016-029) AND NOTICE OF VIOLATION - DATED
FEBRUARY 2, 2018.

DISTRIBUTION:

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ADAMS ACCESSION NUMBER: ML17349A623

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OFFICE	DNMS:MLIB	TL:ACES	C:MLIB	
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