



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

February 6, 2019

Mr. Robert Roberts
Mine Safety Manager
J.R. Simplot Company
Smoky Canyon Mine
P.O. Box 1270
Afton, WY 83110

SUBJECT: J.R. SIMPLOT COMPANY NRC INSPECTION 030-33871/2018-001 AND
NOTICE OF VIOLATION

Dear Mr. Roberts:

This letter refers to the announced inspection conducted by the U.S. Nuclear Regulatory Commission (NRC) on November 28, 2018, at your facility near Afton, Wyoming. This inspection examined activities conducted under your license as they relate to public health and safety, the common defense and security, and to confirm 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, observations of activities, independent radiation measurements, and interviews with personnel. The preliminary inspection findings were discussed with you at the conclusion of the onsite portion of the inspection on November 28, 2018. A final telephonic exit briefing was conducted with you on January 10, 2019.

Based on the results of this inspection, the NRC has determined that two Severity Level IV violations of NRC requirements occurred. The violations were 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 violations are cited and described in the enclosed Notice of Violation (Notice). The violations involved the failures to: (1) use a minimum of two independent physical controls that form tangible barriers to secure a portable gauge from unauthorized removal, when the portable gauge was not under control and constant surveillance; (2) submit an amendment request to change the radiation safety officer on the license.

Based on the results of this inspection, the NRC has also determined that one additional Severity Level IV violation of NRC requirements occurred. Because J.R. Simplot identified and corrected this violation, and the violation is not repetitive, this violation is being treated as a Non-Cited Violation (NCV), consistent with Section 2.3.2 of the Enforcement Policy. The NCV involved the failure to perform leak tests at intervals not to exceed six months. If you contest the violation or significance of the NCV, you should provide a response within 30 days of the date of this inspection report, with the basis for your denial, to the Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington DC 20555-0001, with copies to: (1) the Regional Administrator, Region IV; and (2) the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful in preparing your response. You can find the Information Notice on the NRC website at: <http://pbadupws.nrc.gov/docs/ML0612/ML061240509.pdf>. Information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance will be (was) achieved should be addressed. The NRC review of your response to the Notice will also determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

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. If personal privacy or proprietary information is necessary to provide an acceptable response, 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 information, 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 2.390 of the NRC's "Agency Rules of Practice and Procedure," 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 Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Should you have any questions regarding this letter or the enclosed Notice, please contact Michelle M. Hammond at 817-200-1127, or the undersigned at 817-200-1538.

Sincerely,

/RA by JFKatanic Acting for/

James L. Thompson, Chief
Materials Licensing and Inspection Branch
Division of Nuclear Materials Safety

Docket No. : 030-33871
License No. : 49-27521-01

Enclosure:
Notice of Violation (Notice)

cc:
Wyoming Department of Environmental Quality

NOTICE OF VIOLATION

J. R. Simplot Company
Smoky Canyon Mine
Afton, Wyoming

Docket No.: 030-33871
License No.: 49-27521-01

During an NRC inspection conducted on November 28, 2018, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A) Title 10 *Code of Federal Regulations* (CFR) 30.34(i) requires that each portable gauge licensee use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

Contrary to the above, on November 28, 2018, the licensee did not use a minimum of two independent physical controls that form tangible barriers to secure a portable gauges from unauthorized removal, when the portable gauges was not under the control and constant surveillance of the licensee. Specifically, a portable gauge was secured on a platform in the mill maintenance electrical shop with only one tangible barrier to prevent unauthorized removal and the portable gauge was not under the control constant surveillance of the licensee.

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

- B) License Condition 12 of NRC License 49-27521-01, Amendment No. 10, dated July 11, 2016, requires that the Radiation Safety Officer for the license is Brian Bowers.

Contrary to the above, from October 1, 2018, through November 14, 2018, the Radiation Safety Officer for the license was not Brian Bowers. Specifically, the licensee did not submit a change in Radiation Safety Officer amendment request until prompted by the NRC and no one was designated to perform the duties and responsibilities of the Radiation Safety Officer for activities authorized under the license.

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

Pursuant to the provisions of 10 CFR 2.201, J.R. Simplot Company, is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, Region IV, 1600 E. Lamar Blvd., Arlington, Texas 76011, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include: (1) the reason for the violations, or, if contested, the basis for disputing the violations 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 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 requiring information as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not

Enclosure

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

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>. 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. 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 February 6, 2019.

J.R. SIMPLOT COMPANY NRC INSPECTION REPORT 030-33871/2018-001 AND NOTICE
OF VIOLATION – DATED FEBRUARY 6, 2019

DISTRIBUTION:

S. Morris, ORA
M. Shaffer, ORA
T. Pruett, DNMS
L. Howell, DNMS
J. Thompson, DNMS
J. Katanic, DNMS
M. Hammond, DNMS
R. Erickson, DNMS
J. Cook, DNMS
B. Maier, ORA
R4DNMS_MLIB

ADAMS ACCESSION NUMBER: ML19032A045

<input checked="" type="checkbox"/> SUNSI Review By: mmh	ADAMS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Sensitive <input checked="" type="checkbox"/> Non-Sensitive	<input type="checkbox"/> Non-Publicly Available <input checked="" type="checkbox"/> Publicly Available	Keyword NRC-002
OFFICE	DNMS/MLIB	DNMS/C;MLIB		
NAME	MMHammond	JLThompson		
SIGNATURE	/RA/	/RA by JFKatanic Acting for/		
DATE	2/5/19	2/6/19		

OFFICIAL RECORD COPY