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ADAMS Accession no. ML222055A714

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United States
Nuclear Regulatory Commission
1600 East Lamar Boulevard
Arlington, Texas 76011-4511
Attn: James Thompson

Re: Reply to Notice of Violation 030-38169/2021-001

James:

February 4, 2022

MK Weeden is hereby responding to your letter dated February 3, 2022. In particular, MK Weeden will respond to the 4 NRC Severity Level IV Violations that were discovered during your October 26, 2021 inspection.

Violation #1

The licensee failed to provide recurrent hazmat training to hazmat employees at least once every three years in accordance with 49 CFR 172.704(c).

Root Cause

The root cause of this problem was that the RSO at the time failed to preform his duties and ensure that employees were being trained on the proper interval. Management failed to preform oversite on the RSO and as a result MK Weeden was out of compliance.

Corrective Action

MK Weeden has replaced the RSO. Please see the attached License Amendment authorizing Mike Kindzerski as the Radiation Safety Officer for MK Weeden Construction. Mr. Kindzerski has reviewed the employees training certificates for the current employees that will be using the nuclear gauges in the 2022 construction season. These employees are Nate Kindzerski and David Conwell, both employees have current training certificates, those training certificates are attached. Mike Kindzerski is scheduled for both RSO training and Nuclear Gauge training on February 23 and 24, 2022. MK Weeden Management will review the MK Weeden radiation protection content and implementation on an annual basis to insure the RSO is performing his duties satisfactorily.

Date Full Compliance was Achieved:

MK Weeden will be in full compliance with this requirement after February 24, 2022 when Mike Kindzerski completes the RSO training and Nuclear gauge training courses.

Violation #2

The licensee did not periodically (at least annually) review the radiation protection program content and implementation per 10 CFR 20.1101(c).

Root Cause

The root cause of this problem was that the RSO at the time failed to perform his duties and review the radiation protection program content and implementation per 10 CFR 20.1101(c). Management failed to preform oversite on the RSO and as a result MK Weeden was out of compliance.

Corrective Action

MK Weeden has replaced the RSO. Please see the attached License Amendment authorizing Mike Kindzerski as the Radiation Safety Officer for MK Weeden Construction. Mr. Kindzerski has hired Qal-Tek of Idaho Falls Idaho to perform an audit of its portable gauges. This audit will happen in late March of 2022 and will serve as MK Weeden's annual review of its radiation protection program content and implementation. MK Weeden Management will review this audit. MK Weeden will continue to have Qal-Tek perform these annual audits until MK Weeden's RSO and Management feel comfortable performing the annual audits in house.

Date Full Compliance was Achieved:

MK Weeden will be in full compliance with requirement in late March of 2022, after Qal-Tek has performed the portable gauge audit.

Violation #3

The licensee failed to test sealed sources for leakage and/or contamination at intervals not to exceed the intervals specified in the certificate of registration issued by the NRC. Troxler model 3400 series portable nuclear gauges specifies the leak test frequency to be 12 months.

Root Cause

The root cause of this problem was that the RSO at the time failed to perform his duties and have leak tests performed annually as was required by the NRC. Management failed to perform oversight on the RSO and as a result MK Weeden was out of compliance.

Corrective Action

MK Weeden has replaced the RSO. Please see the attached License Amendment authorizing Mike Kindzerski as the Radiation Safety Officer for MK Weeden Construction. Mr. Kindzerski had the leak tests performed on the nuclear gauges on October 18, 2021 by Qal-Tek of Idaho Falls Idaho. Please see the attached leak tests.

Date Full Compliance was Achieved:

MK Weeden was in full compliance with this requirement on October 18, 2021 when the leak tests were performed.

Violation #4

The licensee failed to use a minimum of two independent physical controls that formed tangible barriers to secure the portable gauges from unauthorized removal.

Root Cause

The root cause of this problem was that the RSO at the time left the company on October 17, 2021. The RSO had been in charge of MK Weeden's Radiation Safety Program for the past 16 years. During his departure he handed the responsibilities of the Radiation Safety program to Mike Kindzerski. Mr. Kindzerski was unfamiliar with the requirements of the program as he had not had anything to do with it for the past 16 years. Due to poor training and communications during the transition the box holding the nuclear gauges did not get locked and MK Weeden was out of compliance.

Corrective Action

MK Weeden has replaced the RSO. Please see the attached License Amendment authorizing Mike Kindzerski as the Radiation Safety Officer for MK Weeden Construction. Mr. Kindzerski has personally checked the nuclear gauges to insure that the gauges are chained and locked to the floor and that the door to the metal box where they are stored is locked.

Date Full Compliance was Achieved:

MK Weeden was in full compliance with this requirement on October 26, 2021 after the NRC discovered the oversight MK Weeden secured the chains inside of the box and locked the box holding the nuclear gauge.

If you have any more questions please feel free to contact me at mikek@mkweeden.com.

Thanks

A handwritten signature in blue ink that reads "Mike 746-3203".

Mike Kindzerski
MK Weeden Construction
406-366-3203.