



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION I
2100 RENAISSANCE BLVD., SUITE 100
KING OF PRUSSIA, PA 19406-2713

February 11, 2016

Docket No. 03038199
EA-15-230

License No. 29-31396-01

Andrew N. Bolt
President
Tetra Tech EC, Inc.
1000 The American Road
Morris Plains, New Jersey 07950

SUBJECT: NRC OFFICE OF INVESTIGATIONS REPORT NO. 1-2014-018

Dear Mr. Bolt:

This letter refers to an investigation conducted by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) between April 29, 2014, and September 17, 2015, to determine, in part, whether employees of Tetra Tech EC, Inc. (Tetra Tech), deliberately falsified soil sample surveys from the area referred to as 'Parcel C' at the U.S. Navy's Hunter's Point Naval Shipyard (HPNS) in San Francisco, California. A Factual Summary of OI Investigation Report No. 1-2014-018 is enclosed (Enclosure 1) with this letter.

Based on the evidence developed during the NRC OI investigation, one apparent violation was identified and is being considered for escalated enforcement action, including a civil penalty, 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 apparent violation, as described in Enclosure 2, involves a failure by Tetra Tech to make or cause to be made, surveys that were reasonable to evaluate concentrations and potential radiological hazards of residual radioactivity in the soil at HPNS. Specifically, between November 18, 2011, and June 4, 2012, when tasked with obtaining soil samples to ascertain the amount of residual radioactivity in specific locations within Parcel C, Tetra Tech employees instead obtained soil samples from other areas that were suspected to be less contaminated. The Tetra Tech employees then represented (on related chain-of-custody records) that the samples had been obtained from the specified locations. As a result, it could have appeared that residual radioactivity within the specific locations in Parcel C was lower than it actually was. It should be noted that the NRC did not identify that buildings, land, or materials were inappropriately released for unrestricted use.

Since the NRC has not made a final determination in this matter, a Notice of Violation is not being issued at this time. Please be advised that the number and characterization of the apparent violation described herein may change as a result of further NRC review.

We believe we have sufficient information to make an enforcement decision regarding the apparent violation. Therefore, you may accept the violation as characterized in this letter and notify us of that decision within 10 days. Alternatively, before the NRC makes its final enforcement decision, you may choose to provide your perspective on this matter, including the significance, cause, and corrective actions, as well as any other information that you believe the NRC should take into consideration by: (1) requesting a pre-decisional enforcement conference (PEC) to meet with the NRC and provide your views in person; (2) requesting Alternative Dispute Resolution (ADR); or (3) responding to the apparent violation in writing.

If you choose to request a PEC, the meeting should be held in our office in King of Prussia, PA, within 30 days of the date of this letter. The conference will include an opportunity for you to provide your perspective on these matters and any other information that you believe will assist the NRC in making an enforcement decision.

In lieu of a PEC, you may also request ADR with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation; a voluntary, informal process in which a trained neutral mediator works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC ADR program can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC program as a neutral third party. Please contact ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR. The ADR mediation session should be held in our office in King of Prussia within 45 days of the date of this letter.

Either the PEC or the ADR would be closed to public observation because the NRC's preliminary findings are based on an NRC OI report that has not been publicly disclosed. However, the time and date of the PEC or ADR will be publicly announced.

If you choose to provide a written response, it should be sent to the NRC within 30 days of the date of this letter. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. You should clearly mark the response as a "Response to Apparent Violations in NRC Investigation No. 1-2014-018; EA-15-230," 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 I, 2100 Renaissance Boulevard, King of Prussia, PA 19406.

Please contact Raymond Powell, Chief, Decommissioning and Technical Support Branch, at 610-337-6967 within **10** days of the date of this letter to notify the NRC which of the above options you choose.

Current NRC regulations and guidance are included on the NRC's website at www.nrc.gov; select **Nuclear Materials; Med, Ind, & Academic Uses**; then **Regulations, Guidance and Communications**. The current Enforcement Policy is included on the NRC's website at

www.nrc.gov; select **About NRC, Organizations & Functions; Office of Enforcement; Enforcement documents**; then **Enforcement Policy (Under 'Related Information')**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 8:00 a.m. to 5:30 p.m. EST, Monday through Friday (except Federal holidays). To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room and from the NRC Agency-wide Documents Access and Management System (ADAMS), accessible from the NRC web site at <http://www.nrc.gov/reading-material-rm/adams.html>.

If you have any questions related to this matter, please contact Mr. Powell of my staff at 610-337-6967.

Sincerely,

/RA/

James M. Trapp, Director
Division of Nuclear Materials Safety

Enclosures:

1. Factual Summary of OI Investigation Report No. 1-2014-018
2. Apparent Violation Being Considered for Escalated Enforcement

cc w/enclosures:

Steven R. Adams, CHP, Radiation Safety Officer
State of California

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James M. Trapp, Director
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Steven R. Adams, CHP, Radiation Safety Officer
State of California

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Distribution: see next page

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*See previous concurrence page **Second review OFFICIAL RECORD COPY

Letter to A. Holt from J. Trapp dated February 11, 2016

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Factual Summary of NRC Office of Investigations Case No. 1-2014-018

On April 29, 2014, the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region I field office initiated an investigation to determine whether employees of Tetra Tech EC, Inc. (Tetra Tech), deliberately falsified soil sample surveys of the Parcel C area of the U.S. Navy's Hunters Point Naval Shipyard (HPNS) in San Francisco, California. The investigation was completed on September 17, 2015, and was documented in the subject OI Report.

Tetra Tech is an international engineering and environmental consultant company which has an office in Morris Plains, New Jersey, and is licensed by the NRC, in part, for the receipt, storage, use, and/or possession of radioactive materials incident to the decontamination, decommissioning, and remediation of contaminated structures, material, groundwater, soils, and soil-like material. Tetra Tech was contracted by the Department of Navy to assist with the regulatory free-release and closure of radiologically-impacted buildings and sites at HPNS under the Navy's Base Realignment and Closure mandate. The activities included remediating areas of HPNS by removing and disposing of contaminated soil, and obtaining samples of the remaining soil from specified locations within the remediated areas. These samples were analyzed to determine the amount of radioactive material within the remaining soil to evaluate whether the sample locations were suitable for release.

The OI investigation revealed that a Radiation Control Technician (RCT) and a Radiation Task Supervisor (RTS) working for Tetra Tech at HPNS deliberately falsified soil sample surveys. Specifically, the RCT testified to the OI investigator, that he was tasked to obtain soil samples from specified areas within Parcel C that Tetra Tech engineers had physically marked and also identified on a map. However, the RCT stated that, when sufficiently low contamination levels were not obtained, the RTS would direct the RCT to move 5 to 10 feet in another direction and obtain a new sample from that location. Meanwhile, the new sample would be represented as having been obtained from the original, specified location. The RCT also testified that there were a number of occasions when he accompanied the RTS to obtain soil from an area known to be less contaminated, and reported the soil as having come from the location identified by the engineers.

The RTS, who was responsible for monitoring the work the technicians performed in the field, testified to OI that, on approximately 10 to 15 occasions, he deviated from where the engineers instructed the technicians to dig without following protocol. However, the RTS stated that this was done to avoid obstructions (e.g., utility lines, buildings) within the specified area. Although the RTS denied obtaining samples from unspecified locations in order to obtain lower contamination levels, he confirmed that he had signed two chain-of-custody forms for samples that the licensee determined had anomalously low levels for the specified location. OI concluded that the evidence supported that the samples were obtained from a location other than the one specified.

Based on the evidence gathered during the OI investigation, it appears that the RCT and RTS had deliberately falsified soil sample surveys of the HPNS Parcel C.

Apparent Violation Being Considered for Escalated Enforcement

10 CFR 20.1501(a) requires, in part, that each licensee shall make or cause to be made, surveys of areas that may be necessary for the licensee to comply with the regulations in 10 CFR Part 20 and are reasonable under the circumstances to evaluate concentrations or quantities of residual radioactivity and the potential radiological hazards of the residual radioactivity detected.

Contrary to the above, on several occasions between November 18, 2011, and June 4, 2012, Tetra Tech did not make or cause to be made surveys that were reasonable to evaluate concentrations or quantities of residual radioactivity and the potential radiological hazards of the residual radioactivity in the soil in Parcel C at Hunter's Point Naval Shipyard. Specifically, when obtaining soil samples to ascertain the amount of residual radioactivity in specific locations within Parcel C, Tetra Tech employees instead obtained soil samples from other areas that were suspected to be less contaminated and represented that the samples had been obtained from within the specified locations. As a result, it could have appeared that residual radioactivity within the specific locations in Parcel C was lower than it actually was.