



CERTIFIED MAIL-RETURN RECEIPT REQUESTED
NOTICE OF VIOLATION

May 3, 2023

Dan Snow, Manager
Lotus LLC
PO Box 1277
Andrews, TX 79714

Greetings, Mr. Snow,

Thank you for providing NORM surveys and lab analysis for EOG Resources, Inc. LOTUS, LLC (LOTUS) provided services in New Mexico under Reciprocal Recognition using their Texas license L05147. The submittal of information by LOTUS performed, culminating on January 18, 2023, documents the survey and analysis for facilities LOTUS performed services for in New Mexico, as required by 20.3 NMAC.

The survey and lab analysis submitted by LOTUS show Regulated NORM, in the form of sludge, in the separator located at the facility identified in the documents submitted as Lotus Alt Battery, UTM Coordinates 32.349470, -103.694607. The facility was additionally identified as Lotus ALT #9, Lotus ALT Battery (separator), ALT Separator, and ALT Battery. The Lotus, LLC survey shows NORM levels are greater than 50 $\mu\text{R/hr}$, and the $^{226}\text{Radium}$ lab analysis exceeds the 30 pCi/gm levels for sludge (i.e., $^{226}\text{Radium}$ in sludge 435 ± 41.2 pCi/gm, completed by Eurofins Lab Midland, Texas).

The LOTUS Waste/Equipment Shipping Manifest, dated January 18, 2023, indicates that 34 barrels of Regulated NORM sludge from Alt Battery in Eddy County, New Mexico were shipped on behalf of EOG Resources, and accepted at a facility in Andrews, Texas on February 15, 2023.

Based on the documents provided by LOTUS, the following deficiencies are identified:

- 1. Failure to obtain reciprocity with a specific license that allows the export, transfer, and disposal of Regulated NORM to a low-level waste facility in another Compact Agreement state:** Under **Section 20.3.3.324.A.(3) RECIPROCAL RECOGNITION OF LICENSES:** "the out-of-state licensee complies with all applicable provisions of 20.3 NMAC, all provisions of the act, now or hereafter in effect, and orders of the board or department and with all the terms and conditions of their licensing document, except any such terms and conditions which may be inconsistent with requirements in this chapter."

LOTUS' application for Reciprocal Recognition provided Texas Specific License L05147 authorizing decontamination of NORM-contaminated pipe, land, buildings, equipment, and materials. LOTUS failed to provide a permit or license allowing the disposal of NORM. It violated the Reciprocal Recognition provision by transferring and disposing of EOG Resources, Inc. Sludge as indicated in LOTUS work order 20431 and export permit LOTUS-23-1.

2. Failure to notify the New Mexico Radiation Control Bureau as required under Section 20.3.3.324.A.(2) RECIPROCAL RECOGNITION OF LICENSES: “the out-of-state licensee notifies the department in writing at least three business days prior to engaging in such activity, filing a form, *reciprocity application - proposed activities*; such notification shall indicate the location of work, period of work, and type, manufacturer name and model number of radioactive material to be brought within the state, the client’s name and address, and shall be accompanied by a copy of the pertinent licensing document and application fee as determined by 20.3.16 NMAC charged once for each calendar year; if, for a specific case, the three-day period would impose an undue hardship on the out-of-state licensee, they may, upon application to the department, obtain permission to proceed sooner; the department may waive the requirements for filing additional written notifications during the calendar year following the receipt of the initial notification from a person engaging in activities under the general license provided in this section.”

In addition, under **Section 20.3.3.324.A.(4), RECIPROCAL RECOGNITION OF LICENSES:** “the out-of-state licensee supplies such other information as the department may request.”

LOTUS failed to provide the department with written notification three days prior to January 18, 2023, of its activities at EOG Resources, Inc. In addition, LOTUS failed to provide the department with the addendum information requested on August 5, 2022.

Please provide a written response to the listed violations within 15 days of receipt of this letter. A response can include information regarding the violation circumstances and means by which LOTUS is now in compliance with the regulations. Failure to respond may result in escalated enforcement and the issuance of an administrative compliance order, which can include civil penalties of up to \$15,000 per day of non-compliance.

Within 15 days of receipt of this letter, please send the required documentation to:

Michael Ortiz, Program Manager
NMED-Radiation Control Bureau
Joseph Montoya Building Suite 2022
P.O. Box 5469
Santa Fe, NM 87502-5469
Michael.Ortiz1@env.nm.gov
505-699-0060

Thank you for the assistance and courtesy extended to our staff during our review of the NORM surveys and laboratory analysis submitted. Should you have any questions, please contact the Bureau at (505) 476-8600.

Sincerely,

A handwritten signature in blue ink that reads "Santiago M. Rodriguez". The signature is written in a cursive style with a large, stylized "S" and "R".

Santiago M. Rodriguez, Bureau Chief
Radiation Control Bureau
New Mexico Environment Department
cc: file