

**From:** Saporito, Thomas J (MED, Adecco) [Thomas.Saporito@med.ge.com]  
**Sent:** Friday, August 02, 2002 8:48 AM  
**To:** 'tjas@ispwest.com'  
**Subject:** FW: SAFETY CONCERNS - DISCRIMINATORY RETALIATION

-----Original Message-----

**From:** Saporito, Thomas J (MED, Adecco)  
**Sent:** Friday, August 02, 2002 5:12 AM  
**To:** Burrage, David (MED)  
**Cc:** Zaborowski, Karen (MED); Trent, Tim (MED); Hirschberg, Steve (MED, GEMS-IT); Sierra, Abel (MED, GEMS-IT)  
**Subject:** SAFETY CONCERNS - DISCRIMINATORY RETALIATION

David,

Please find two files attached for you consideration.

Thanks!  
thomas

**GE Clinical Services**

Thomas Saporito

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## INTER-OFFICE MEMORANDUM

Wednesday, July 31, 2002

Karen Zaborowski  
Director, National Laser Group

RE: Final Safety Analysis Review – (GEMEX-08006-030)

This document serves to apprise you of certain and specific actions, which we are engaging with respect to conducting a Final Safety Analysis Review ("FSAR") of the GEMEX-08006-030 Laser Test Fixture ("GEMEX") prior to authorizing and approving its release to our Laser Field Engineers for use at various customer locations within the United States.

### PROJECT OWNERSHIP

As a result of McQueary's recent departure from G.E., I have requisite "ownership" and share responsibility for the GEMEX project.

### PRELIMINARY SAFETY ANALYSIS

Thus, far I<sup>1</sup> have been in consultation with Able Sierra our facility engineer and with Mike Triana regarding certain and specific safety concerns which have been raised concerning the transportation and operation of GEMEX as delineated below:

- A preliminary review of Material Safety Data Sheets ("MSDS") associated with certain gases required for operation of GEMEX reveal inherent health and safety risks in the event of accidental inhalation of one or more of these gas products.
- Certain Federal and/or State law(s) and regulations require that individuals involved in the transportation and handling of the gas products mentioned above receive training and perhaps certification. I note here that we understand that this training may be obtained online via the Internet.
- The GEMEX, which is currently under FSAR, is a "prototype" model intended to be operated solely at the G.E. Jupiter, Florida facility for operational evaluation and design enhancements. Indeed, the undersigned was directly involved in GEMEX's construction, which employed scrap parts, materials from harvested equipment, and scrap 2 X 4 wooden supports secured with drywall screws. Notably, the GEMEX prototype employs plastic tie-wraps and wood screws to secure vital equipment components and parts such as scrubbers and filters. In addition, the GEMEX prototype is constructed with three different types and sizes of tubing (i.e. tygon, polyflow, and stainless steel).
- The GEMEX is top heavy and can tip over easily during packaging, unpackaging, and while in use at the client's facility.
- The GEMEX fails to employ and type of safety device to secure the above reference gas cylinders required for proper and safe operation of the device.

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<sup>1</sup> My opinion is based on 30-years of experience of which approximately 10-years was in the Biomedical field, 10-years in the Commercial Power Plant field, and 10-years in the Industrial Electronics and Telecommunications field. Performing in these disciplines over the years I gained requisite knowledge of OSHA and JCAHO authority, regulations, and requirements.

- In its current state of construction as a “prototype”, the GEMEX **cannot** be transported with any amount of certainty and assurance that the unit would not sustain significant damage to one or more operational components and/or tubing which may directly or indirectly cause a **health and safety risk** to the operator **even if preliminary pressurization tests were conducted** prior to operation of GEMEX.<sup>2</sup> Indeed, because this unit is a “prototype”, one simply cannot anticipate how these “harvested and scrap” components, parts, and tubing may behave once the unit is fully operational over an extended period of time.

### PRELIMINARY CONCLUSIONS

- The GEMEX is merely a “prototype” model constructed solely for in-house use at the G.E. Jupiter, Florida facility for design enhancement and for training purposes.<sup>3</sup>
- The GEMEX prototype **cannot be safety transported** for field use without the possibility of sustaining component damage, nor was intended for use, by our Laser Team field engineers.
- The GEMEX requires significant redesign of its frame and housing for **safety** reasons and for operational considerations in the field.
- The GEMEX redesign must employ devices to secure the pressurized gas cylinders when the unit is placed in operation in the field.
- The shipping crate currently used to transport the GEMEX requires retrofitting employing shock absorbers, packaging material, and ratchet type strapping devices to prevent GEMEX component damage during shipment.
- Individuals involved in the transport of gas cylinders associated with the GEMEX unit must receive required training to comply with Federal and State law(s) governing the transport of such materials within the continental United States.
- The Laser Group Field Engineers involved in the use of GEMEX must receive adequate training for the proper operation and use of this equipment and to be made fully aware of the inherent safety risks associated with using the gas products required for the operation of GEMEX. (i.e. MSDS). This training requirement extends to those individuals at the Jupiter, Florida facility who are involved in the GEMEX testing, GEMEX operation, or who otherwise become involved in the transport of the GEMEX.
- The “**Fluid Diagram Schematic**” of the GEMEX, which I recently completed, must be evaluated and considered by the undersigned and by our engineer Able Sierra, and compared to our existing written operational procedure to ensure that the written procedure contains the necessary sequence of steps to provide for the safe and proper operation of the GEMEX.

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<sup>2</sup> Indeed, this safety concern was discussed and a conclusion drawn to incorporate the requirement for pressurization testing of the GEMEX in the field prior to placing the unit in operation at the client facilities.

<sup>3</sup> These opinions are drawn from my education, knowledge, experience, and consultation with Able Sierra and Mike Triana. I note here that these individuals may not agree with one or more of these preliminary FSAR conclusions. Nonetheless I have requisite ownership and share responsibility for the GEMEX project and state these conclusions for further evaluation and consideration in authoring the forthcoming FSAR for the GEMEX Test Fixture.

- The GEMEX procedure must be evaluated and considered to ensure that it provides adequate references to MSDS documentation, equipment service manuals, Federal and State law(s) pertaining to the transport of the associated gas cylinders, personnel training requirements, etc.
- We need to take a look at our training curriculum for sufficiency to address the areas of concern stated above.
- We need to properly assess required materials, parts, and labor to provide a basis to justify a proposed budget for retrofitting the GEMEX and the GEMEX shipping crate.
- The GEMEX FSAR must employ an acceptance sign-off sheet requiring a thorough review and hand-written acceptance signature by all of the individuals identified below or, in the case of their absences, by their respective representative:
  - Mike Triana                      Department Manager
  - Able Sierra                        Department Engineer
  - Thomas Saporito                GEMEX Project Owner
  - Steve Hirschberg                Chairman, Safety Committee
  - Tim Trent                            Member, Safety Committee
- Under **NO CIRCUMSTANCES**, due to the inherent and implied safety concerns identified above, will the GEMEX Test Fixture be authorized for transportation and use in the field unless the GEMEX FSAR is completed and duly reviewed by the above-mentioned authority and accepted by hand-written signature of the same authority.

**ESTIMATED COMPLETION TIME AND BUDGET CONSIDERATIONS**

- GEMEX retrofit construction activities within two or three weeks after approval of a proposed budget for the project.
- FSAR within one week after all retrofit construction activities are completed. This time period includes operational testing per written procedure, safety evaluation, training, shipping considerations, etc.
- BUDGET – the construction of the GEMEX frame will be placed for quotation to three separate machine shops for cost considerations. Note: it is not realistically practical to retrofit the GEMEX at the Jupiter facility as we do not have the time, materials, tools, and machinery required to construct the framework for this equipment. Once these three quotations are received, we will add additional (in-house) time and labor costs associated with the FSAR requirements and submit the proposed budget for approval.

If you have any questions regarding the forgoing, please advise.

Thomas Saporito  
National Modality Group

Cc: Mike Triana  
Able Sierra  
Steve Hirschberg  
Tim Trent

## INTER-OFFICE MEMORANDUM

August 02, 2002

David Burrage  
G.E. EHS Manager

RE: SAFETY CONCERNS AND RETALIATORY DISCRIMINATION

David,

Thank you so much for taking the time to meet with me and Michael Triana regarding safety questions, which came to light during our Final Safety Analysis Review ("FSAR") of the GEMEX Project. The information that you provided yesterday will be of great assistance to the GEMEX Project team. I would also like to thank you for providing me with the EHS training disk so that I may learn the safety concepts contained therein. I am concerned that I was not provided this material when I initially was employed at the G.E. Jupiter facility. Nonetheless, I will review the disk as soon as possible.

As we discussed during our meeting yesterday, there are significant health and safety concerns addressed in the FSAR for the GEMEX Project. I am providing a copy of the FSAR for your review and consideration. Please be advised that shortly after our meeting, Michael Triana removed me from the GEMEX Project completely. Thus, my health and safety concerns identified in the FSAR may not be given the focus and attention they deserve. Furthermore, I perceive Michael Triana's actions in removing me from the FSAR and GEMEX Project to be discriminatory and retaliatory for my having raised health and safety concerns with him and with others at G.E. Indeed, Michael Triana has on several occasions threatened to fire me if I did not drop the health and safety issues contained in the FSAR. Notably, he again threatened to fire me because I raised safety questions with respect to the storage of the GEMEX gases. In this particular case Michael Triana openly threatened to fire me in front of my coworkers and my peers. Soon after I identified health and safety concerns in the FSAR and GEMEX Project Michael Triana has treated me in a very aggressive and hostile manner. He has on numerous occasions talked to me in a very condescending and demeaning manner in front of my coworkers and my peers. Indeed, Michael Triana has even threatened to have my email cut-off because I apprised Karen Zaboroski and our safety committee about the FSAR and GEMEX Project. I am very concerned about Michael Triana's behavior and conduct towards me since I brought these health and safety concerns to his attention.

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Therefore, for all the above stated reasons, I respectfully request that you:

- Take such actions as you deem necessary to have the health and safety concerns identified in the FSAR and GEMEX Project reviewed, considered, investigated, and resolved where appropriate;
- Take such actions, as you deem necessary in addressing the concerns that I have delineated above regarding Michael Triana's aggressive and hostile behavior that I perceive he has taken towards me for my having raised these safety concerns at the G.E. Jupiter facility; and
- Take such actions, as you deem necessary to ensure that all employees at the G.E. Jupiter facility feel free to raise health and safety concerns "without" fear of discriminatory retaliation.<sup>1</sup> Because Michael Triana verbally threatened to fire me in front of my co-workers and my peers at G.E., the remedy must contain sufficient elements and aspects to assure all employees at the G.E. Jupiter facility that they will not suffer any type or form of discriminatory retaliation for having engaged in "protected activity" through raising health and safety concerns at the G.E. facility to any person or to any supervisor or to any manager at any level of the chain of command. I strongly suggest that a copy of any written G.E. policy to this effect, if it exists, be given to each and every employee at the Jupiter facility.

I am placing my confidence in you David to timely bring the aforementioned safety concerns and the discriminatory retaliation concerns to the proper level of management at G.E. to receive the required focus and attention needed to swiftly act upon them in a manner consistent with G.E.'s written policies and procedures, if they exist, and in accordance with Federal and State law. Thus, I respectfully request a written response from G.E. management, within 15-days hereof, detailing the actions, if any, they intend to take. I am placing further confidence in you David and in G.E. management to make a serious, conscientious, demonstrative, and timely effort to address and resolve both the safety concerns and the discriminatory retaliation issues identified herein. In the alternative, I may seek recourse through the Federal and/or State authorities.

Respectfully submitted,

Thomas Saporito

Cc: file

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<sup>1</sup> Federal law prohibits discriminatory retaliation against employees who raise questions pertaining to health and safety issues and requires employers to maintain a "non-hostile" work environment in such cases. See, 42 USC 5851, as amended. See also, State of Florida law regarding the same.