

August 27, 2008

EA-08-200

Terence P. Chambers, P.E.
President
Soil Technology Associates, Inc.
P.O. Box 106
Pomfret Center, CT 06259-0106

SUBJECT: NOTICE OF VIOLATION
(NRC Inspection Report No. 03034238/2008001)

Dear Mr. Chambers:

This refers to the inspection conducted from June 19 through June 26, 2008, at your Pomfret Center, Connecticut facility. The inspection was an examination of your licensed activities as they relate to radiation safety and to compliance with the Commission's regulations and your license conditions. The findings of the inspection were discussed with your staff at the completion of the inspection on June 26, 2008, and during a telephone exit meeting on July 11, 2008. Subsequently, on July 31, 2008, the subject inspection report was issued to you describing an apparent violation which was being considered for escalated enforcement.

In the letter transmitting the inspection report, we also provided you the opportunity to address the apparent violation identified in the report by either attending a predecisional enforcement conference (PEC) or by providing a written response before we made our final enforcement decision. You contacted Mr. Craig Gordon of this office on August 12, 2008, and declined the opportunity to either attend a PEC or to provide additional written information regarding the apparent violation since the NRC was aware of your corrective actions.

Based on the information developed during the inspection, the NRC has determined that a violation of NRC requirements set forth in 10 CFR 30.34(i) occurred. This violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the subject inspection report. The violation involved the failure to use two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal at your facility during periods when the gauges were not under control and constant surveillance. Specifically, on June 20, 2008, two portable gauges were stored in locked storage containers within your facility. At the time, a normally closed and locked exterior roll-up door to your facility was open, and the two locked containers were present near the open roll-up door. The containers were not secured by any means to prevent their removal from the facility, nor were licensee personnel present at all times in the area to provide control and constant surveillance of the stored gauges.

This violation is of concern to the NRC because the potential existed for an unauthorized individual to take possession of the gauges which could have resulted in a member of the public

being exposed to radiation if the gauges, containing licensed material, were not handled properly. Therefore, in accordance with the Enforcement Policy, the NRC has classified this violation at Severity Level (SL) III.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3,250 is considered for a SL III violation. Because your facility has not been the subject of escalated enforcement action within the last two years or two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. Credit for corrective actions is warranted because your corrective actions were considered prompt and comprehensive. These corrective actions included: (1) securing and maintaining the exterior roll-up door closed and locked unless one of the gauge users is present to provide constant control and surveillance; (2) relocating the storage containers to a locked storage closet in the facility; and, (3) discussing the incident with appropriate personnel to ensure that all gauge users understand the requirement to maintain two independent physical controls that form tangible barriers to properly secure the portable gauges.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this SL III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in this letter, and in NRC Inspection Report No. 03034238/2008001. Therefore, you are not required to respond to this letter or the enclosed Notice. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201, if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, please follow the instructions in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. If you choose to respond, to the extent possible, your response should not include any personal privacy, proprietary, or safeguards 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

T. Chambers

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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). The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov>.

Sincerely,

/RA/

Samuel J. Collins
Regional Administrator

Docket No. 03034238
License No. 06-30338-01

Enclosure: Notice of Violation

cc: State of Connecticut

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Sincerely,

/RA/

Samuel J. Collins
Regional Administrator

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*See previous concurrence
** via email on 8/25/08
*** via email from L Sreevinas on 8/26/08

NOTICE OF VIOLATION

Soil Technology Associates, Inc.
Pomfret Center, Connecticut

Docket No. 03034238
License No. 06-30338-01
EA-08-200

During an NRC inspection conducted from June 19 through June 26, 2008, a violation of NRC requirements was identified and was discussed during an exit meeting on July 11, 2008. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 30.34(i) requires that each portable gauge licensee shall 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 June 20, 2008, the licensee failed to use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, when the portable gauges were not under the control and constant surveillance of the licensee. Specifically, no tangible barrier existed to secure two portable gauges from unauthorized removal when the gauges were unattended and a roll up door was open at the licensee's facility. While the gauges were stored within locked containers, the containers were not secured to prevent the containers and their contents from unauthorized removal, such that no independent physical controls that formed tangible barriers were present.

This is a Severity Level III violation (Supplement IV).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to be taken to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in the letter transmitting this Notice and in NRC Inspection Report No. 03034238/2008001. Therefore, a response to this Notice is not required. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a, "Reply to a Notice of Violation, EA-08-200," 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, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). 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.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at www.nrc.gov/reading-rm/adams.html. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 27th day of August 2008