

March 23, 2009

EA-08-332

Jennifer O'Neill-Torres
President/Radiation Safety Officer
S&M Testing Laboratory
ADDRESS DELETED
UNDER 10 CFR 2.390

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF
CIVIL PENALTIES - \$16,250 (NRC Inspection Report No. 03032029/2007001
and Investigation Report No. 1-2008-030)

Dear Ms. O'Neill-Torres:

This refers to the Nuclear Regulatory Commission (NRC) inspection that was conducted from May 1, 2007, through September 23, 2008, to review the use of licensed materials (portable gauges) by S&M Testing Laboratory (S&M Testing). The purpose of the inspection was to examine S&M Testing's licensed activities as they relate to radiation safety and compliance with NRC regulations and conditions of its license. During the inspection, the NRC identified that S&M Testing had terminated all business operations related to use of NRC-licensed gauges and had: (1) moved all licensed gauges to a storage location in Gurabo, Puerto Rico (PR), that was not authorized on the license; (2) failed to respond to repeated attempts by NRC staff to discuss the status of licensed activities; and (3) failed to secure portable gauges by using a minimum of two physical controls that form tangible barriers to unauthorized removal.

Beginning May 1, 2007, an NRC inspector attempted to contact S&M Testing by telephone on several occasions to ascertain the status of licensed activities; however, S&M Testing failed to respond to messages left from these telephone calls. On September 24, 2007, the NRC sent S&M Testing a letter via certified mail requesting information about licensed activities. Although the letter was signed for by an S&M Testing representative on October 10, 2007, the NRC received no response. On December 6, 2007, an NRC inspector attempted to inspect S&M Testing's licensed storage location in Caguas, PR, and identified that S&M Testing had vacated the premises. The NRC inspector contacted you, as the President/Radiation Safety Officer (RSO) of S&M Testing, by telephone on December 6, 2007, but you refused to provide information about either the location or condition of the NRC-licensed gauges.

Based on the information obtained during the inspection, the NRC Office of Investigations (OI) initiated an investigation on March 7, 2008, to locate you and determine the whereabouts of the licensed material that S&M Testing was authorized to possess, and to determine if S&M Testing had deliberately failed to: (1) confine possession of licensed material to locations authorized on the NRC license, as required by 10 CFR 30.34(c); and (2) provide the NRC an opportunity to inspect the material, activities, and facilities to verify security of licensed material in S&M Testing's possession, as required by 10 CFR 30.52(a).

Based on the OI investigation, the NRC determined that S&M Testing deliberately failed to obtain NRC approval via an amendment to NRC License No. 52-25133-01 to authorize storage of the gauges at the alternate location in Gurabo, PR, and deliberately failed to provide the NRC an opportunity to inspect the gauges when the NRC attempted to do so on December 6, 2007.

On August 6, 2008, an NRC inspector conducted a preliminary exit meeting with you to discuss the findings of the inspection and the need to take corrective action to address the findings. The inspector also provided S&M Testing with a copy of an NRC Order, dated April 4, 2008, revoking its license due to non-payment of fees. In addition, on September 23, 2008, an NRC branch chief conducted a final exit meeting with you and summarized the inspection findings, including the apparent violations of NRC requirements. The NRC inspection report and a factual summary of the OI investigation were provided to S&M Testing in an NRC letter dated January 6, 2009.

In the January 6, 2009, letter, the NRC provided S&M Testing the opportunity to discuss these findings during a predecisional enforcement conference (PEC), or to engage the NRC in an alternative dispute resolution (ADR) mediation session before the NRC made a final enforcement decision. S&M Testing did not respond to either the letter or to the NRC staff's subsequent telephone calls regarding the letter.

Based on the information developed during the inspection and the OI investigation, the NRC has determined that violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice), and the circumstances surrounding them are described in detail in the subject inspection report and investigation summary. The violations involve: (1) the deliberate failure to confine possession of byproduct material to only those locations authorized by NRC License No. 52-25133-01; (2) the deliberate failure to provide the NRC an opportunity to inspect byproduct material and the premises where the byproduct material was stored, as required by 10 CFR 30.52(a); and (3) the failure to utilize a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal whenever the gauges were not under the control and constant surveillance of the licensee, as required by 10 CFR 30.34(i).

The first violation, involving storage of licensed material at an unauthorized location, existed between May 1, 2007, and September 23, 2008, the date on which the NRC arranged, through the Conference of Radiation Control Program Directors (CRCPD), for a contractor to remove the gauges from the unauthorized storage location and transfer them to an authorized recipient for storage. Prior to that date, S&M Testing had maintained the gauges in locked metal boxes stored under the portico of a private residence in Gurabo, PR. This location was not listed on S&M Testing's NRC license as an authorized storage location. You stated to the NRC inspector on August 6, 2008, that you had moved the gauges to the private residence in Gurabo, PR, after the lease expired at the authorized storage location listed on S&M Testing's NRC license. You informed the NRC inspector that S&M Testing no longer had use for the gauges, and did not have resources for their disposal. You further stated that the NRC or its contractor may dispose of the sources. As previously stated, the NRC arranged, through the CRCPD, for a contractor to remove the sources on September 23, 2008, and transfer them to an authorized recipient for storage. The contractor appropriately stored the gauges until November 19, 2008, when they were transferred to a vendor for disposal.

In assessing the significance of this violation, the NRC considered that the unauthorized storage location was not an adequate facility for the storage of licensed radioactive material. The storage location was neither properly controlled nor appropriately protected from the

environment. This increased the potential that the gauges could have been accessed by a member of the public, thereby increasing the potential for members of the public to be exposed to radiation if the gauges had been mishandled. The NRC also considered that this violation was deliberate. Therefore, this violation has been categorized at Severity Level III, in accordance with the NRC Enforcement Policy.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$3,250 is considered for a Severity Level III violation. Because the violation was deliberate, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. Credit for identification is not warranted because this violation was identified by the NRC. Credit for corrective action is also not warranted, because S&M Testing failed to transfer the gauges to an authorized storage location, and this necessitated significant government involvement to ensure the gauges were properly stored and disposed. Therefore, to emphasize the importance of storing radioactive material only at authorized locations, I have decided to issue the enclosed Notice and Proposed Imposition of Civil Penalty in the amount of \$6,500.

The second violation, involving the failure to provide the NRC the opportunity to inspect the licensed material and its storage location, existed between May 1, 2007, and August 6, 2008, the date on which S&M Testing provided an NRC inspector access to the unauthorized storage location. Prior to that date, S&M Testing either failed to respond to NRC communication attempts, or refused to provide the address of the gauge storage location. After the NRC investigators, with assistance from the Federal Bureau of Investigation (FBI), located and contacted you on August 6, 2008, you informed the NRC and FBI that the storage location was a private residence in Gurabo, PR.

In assessing the significance of this violation, the NRC considered that S&M Testing's failure to: (1) respond to NRC communications; (2) provide the NRC information regarding the licensed material storage location; and (3) provide the NRC access to the licensed material storage location, constituted a significant impact to the NRC regulatory process. S&M Testing's actions also increased the potential that the radioactive material could have been lost, if the NRC had not eventually located it. The NRC also considered that this violation was deliberate, as you admitted to an investigator that responding to the NRC was "not a priority". Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$3,250 is considered for a Severity Level III violation. Because this violation was deliberate, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. Credit for identification is not warranted because this violation was identified by the NRC. Credit for corrective action is also not warranted, because S&M Testing was unresponsive to NRC communications and refused to provide information about either the location or condition of the gauges. Therefore, I have decided to issue the enclosed Notice and Proposed Imposition of Civil Penalty in the amount of \$6,500.

The third violation, involving the failure to use two independent physical controls to secure the gauges from unauthorized removal, existed between May 1, 2007, and September 23, 2008, the date on which the NRC contractor removed the gauges from the unauthorized storage location, moved them to an authorized location, and appropriately stored them with two physical controls that formed tangible barriers. Prior to that date, S&M Testing had maintained the gauges in

metal containers, secured with one lock, under the portico of the private residence in Gurabo, PR. The key to the locks had been kept in an unlocked cabinet on the front porch of the private residence. During the onsite inspections on August 6, 2008 and August 15, 2008, as well as during a telephone discussion on August 21, 2008, the NRC inspector informed you of the proper requirements for securing licensed material. You agreed to install the second barrier and to contact the NRC when you had completed the action and appropriately secured the gauges. However, you failed to notify the NRC that you had taken corrective action, and failed to respond to subsequent NRC inquiries as to whether the corrective action had been taken. Until the NRC contractor removed the gauges on September 23, 2008, the gauges were only secured by the one physical control (locked metal boxes).

In assessing the significance of this violation, the NRC considered that, while none of the gauges were lost or stolen during the time they were not properly stored, members of the public could have potentially accessed the radioactive material and been exposed to radiation if the gauges had been mishandled. The gauges had been secured by only one physical control, and the storage location (where the key was maintained) was a private residence that was not owned by S&M Testing. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$3,250 is considered for a Severity Level III violation. Because S&M Testing has not been the subject of escalated enforcement actions 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 action is not warranted because S&M Testing failed to secure the gauges with a second physical control, after the NRC had identified the violation to you on multiple occasions. The violation was only corrected when the NRC contractor removed the gauges from the unauthorized storage location on September 23, 2008, over a month after the NRC first identified the problem. Therefore, to emphasize the importance of proper control of licensed material, and of prompt and comprehensive correction of violations, I have decided to issue the enclosed Notice and Proposed Imposition of Civil Penalty in the amount of \$3,250.

During the inspection, the NRC identified five other violations of NRC requirements, which have been categorized at Severity Level IV. These are documented in Section II of the enclosed Notice and were described in detail in NRC Inspection Report No. 03032029/2007001.

Pursuant to 10 CFR 2.201, you are required to provide a response to the enclosed Notice and Proposed Imposition of Civil Penalty identifying whether you admit or deny the violations, as well as to provide appropriate payment of the Civil Penalty. Please follow the instructions in the enclosed Notice when preparing your response. Your response will be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's document system (ADAMS). 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 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).

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and 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 <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Sincerely,

./RA/

Cynthia A. Carpenter, Director
Office of Enforcement

Docket No. 03092029
License No. 52-25133-01

Enclosures:

1. Notice of Violation and Proposed Imposition
of Civil Penalties
2. NUREG/BR-0254 Payment Methods

cc: Commonwealth of Puerto Rico

DISTRIBUTION w/encl:

SECY

OEWEB

WBorchardt, EDO

MVirgilio, DEDMRT

CMiller, FSME

GPangburn, FSME

JLeuhman, FSME

MBurgess, FSME

SWassler, NSIR

GPurdy, NSIR

SWilliam, OEDO

TBloomer, OEDO

CMarco, OGC

GCaputo, OI

HBell, OIG

STitherington-Buda, OCFO

MWilliams, OCFO

EHayden, OPA

SCollins, RA

MDapas, DRA

JKinneman, RI

MMiller, RI

KFarrar, ORA

DHolody, ORA

ADeFrancisco, ORA

MMcLaughlin, ORA

DScrenci, PAO-RI

NSheehan, PAO-RI

Region I OE Files (with concurrences)

Enforcement Coordinators RII, RIII, RIV

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and 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 <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at [\(http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/\)](http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/)

Sincerely,

/RA/

Cynthia A. Carpenter, Director
Office of Enforcement

Docket No. 03032029
License No. 52-25133-01

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalties
2. NUREG/BR-0254 Payment Methods

cc: Commonwealth of Puerto Rico

ADAMS PACKAGE ML090780239

OFFICE	RI/ORA	RI/DNMS	RI/DNMS	RI/OI	RI/ORA	RI/ORA
NAME	*M McLaughlin	*M Miller	*J Kinneman	*E Wilson	*K Farrar	*D Holody
DATE	02/11/09	02/11/09	02/12/09	02/13/09	02/19/09	02/20/09
OFFICE	RI/RA	HQ/FSME	HQ/OGC	HQ/OE		
NAME	M Dapas	A McIntosh	B Kluken	C Carpenter		
DATE	02/24/09	02/25/2009	3/10/09	3/239		

OFFICIAL RECORD COPY

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTIES

S&M Testing Laboratory
Gurabo, Puerto Rico

Docket No. 03032029
License No. 52-25133-01
EA-08-332

During an NRC inspection conducted from May 1, 2007, through September 23, 2008, and an investigation conducted by the NRC Office of Investigations (OI) that was initiated on March 7, 2008, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the NRC proposes to impose civil penalties pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violations and associated civil penalties are set forth below:

I. VIOLATIONS ASSESSED A CIVIL PENALTY

- A. 10 CFR 30.34(c) requires, in part, that each person licensed by the Commission pursuant to regulations in Part 30 confine possession and use of the byproduct material to the locations and purposes authorized in the license.

Contrary to the above, S&M Testing Laboratory (S&M Testing) did not confine its possession of the byproduct material to the locations authorized in the license. Specifically, from May 1, 2007, through September 23, 2008, S&M Testing stored licensed material (portable gauges) at a location in Gurabo, Puerto Rico (PR), and the location was not an authorized storage location on the license.

This is a Severity Level III violation (Supplement VI).
Civil Penalty - \$6,500

- B. 10 CFR 30.52(a) requires that each licensee afford to the Commission at all reasonable times an opportunity to inspect byproduct material and the premises and facilities wherein byproduct material is used or stored.

Contrary to the above, S&M Testing did not afford to the Commission at all reasonable times an opportunity to inspect byproduct material and the premises and facilities wherein byproduct material was used or stored. Specifically, from May 1, 2007 through August 6, 2008, S&M Testing failed to respond to NRC letters and telephone calls that requested information regarding its licensed activities and storage of licensed material.

This is a Severity Level III violation (Supplement VII).
Civil Penalty - \$ 6,500

- C. 10 CFR 30.34(i) requires that each portable gauge licensee 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, S&M Testing did not use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal whenever portable gauges were not under the control and constant surveillance of the licensee. Specifically, between May 1, 2007, and September 23, 2008, S&M Testing stored 11 portable gauges in locked metal boxes located in an unrestricted area in Gurabo, PR, and the keys to the boxes were left in another unrestricted area. This method of storage did not provide any tangible barrier to secure the gauges from unauthorized removal, and, during this period, the gauges were not under the control and constant surveillance of S&M Testing.

This is a Severity Level III violation (Supplement IV).
Civil Penalty - \$ 3,250

II. VIOLATIONS NOT ASSESSED A CIVIL PENALTY

- A. 10 CFR 30.3 requires, in part, that except for persons exempted, no person shall possess or use byproduct material except as authorized by a specific or general license issued pursuant to Title 10, Chapter 1, Code of Federal Regulations.

Contrary to the above, S&M Testing possessed byproduct material of a type that was not authorized by its license or by general license pursuant to Title 10, Chapter 1, Code of Federal Regulations. Specifically, S&M Testing's NRC license authorizes the possession and use of Campbell Pacific Nuclear Model MC-1 portable gauges only. However, prior to September 23, 2008, S&M Testing also possessed two Humboldt 5001C gauges that were not authorized on its license, and S&M Testing was unable to provide the NRC any information about how, when, and from whom S&M Testing had received the two Humboldt 5001C gauges.

This is a Severity Level IV Violation (Supplement VII)

- B. 10 CFR 30.34 (b) requires, in part, that no license, nor any right under a license, be transferred or assigned through transfer of control without the written approval of the NRC.

Contrary to the above, S&M Testing transferred rights under a license in that: (1) in October 2005, S&M Testing changed the name of its company to Caribbean Soil, without notifying or obtaining the written approval of the NRC; and (2) during periods between May 1, 2007, and September 23, 2008, while S&M Testing stored its licensed material at an unauthorized location, the owner of the storage location, who was not affiliated with the licensed activities, maintained control of the gauges.

This is a Severity Level IV Violation (Supplement VI)

- C. 10 CFR 71.5(a) requires that a licensee who transports licensed material outside of the site of usage, as specified in the NRC license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, comply with the applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR Parts 107, 171-180, and 390-397.

49 CFR 173.475 requires, in part, that before each shipment of any Class 7 (radioactive) materials package, the offeror ensure by examination or appropriate tests, that the packaging is in unimpaired physical condition.

Contrary to the above, prior to September 23, 2008, S&M Testing shipped Class 7 (radioactive) materials (portable gauges) in packages and did not ensure by examination or appropriate tests that the packaging containing the material was in an unimpaired physical condition prior to shipment. Specifically, S&M Testing transported via public highways four portable gauges from its authorized storage facility in Caguas, PR, to a private residence in Gurabo, PR, in packaging that contained significant cracks or holes. Additionally, S&M Testing transported one of the gauges without using the required transport container.

This is a Severity Level IV Violation (Supplement V)

- D. Condition 17 of NRC License No. 52-25133-01 states that each portable gauge shall have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The gauge or its container must be locked when in transport or storage, or when not under the direct surveillance of an authorized user.

Contrary to the above, prior to September 23, 2008, S&M Testing did not lock the portable gauges in its possession or their containers while the gauges were in storage. Specifically, on August 6, 2008, S&M Testing stored portable gauges at an unauthorized storage location and none of the gauges or the transport containers were locked to prevent inadvertent removal of the associated sources from their shielded position.

This is a Severity Level IV Violation (Supplement VI)

- E. Condition 15 of NRC License No. 52-25133-01 states, in part, that sealed sources that are not in storage shall be tested for leakage and/or contamination at intervals not to exceed six months or at the intervals specified in the certificate of registration, and that records of leak test results shall be maintained for five years.

Contrary to the above, S&M Testing did not test the gauges in its possession for leakage and for contamination at the required intervals during periods when they had been in use. Specifically, from June 2005 through the end of 2006, an interval of more than one year, S&M Testing utilized the gauges and did not test the gauges for leakage.

This is a Severity Level IV Violation (Supplement VI)

The NRC has concluded that information regarding the reason for the violations and the actions taken to correct the violations and prevent recurrence is already adequately addressed on the docket in Inspection Report No. 03032029/2007001. The actions involved: the removal and disposal of the gauges by the NRC contractor; the NRC's revocation and termination of the

S&M Testing license; and issuance of an Order prohibiting the President/RSO of S&M Testing from involvement in NRC licensed activities for a period of five years. However, if the description therein does not accurately reflect your position, you are required to submit a written statement or explanation under 10 CFR 2.201. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation: (EA-08-332)," and send it to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S., Nuclear Regulatory Commission, Region I.

S&M Testing may pay the civil penalties proposed above or the cumulative amount of the civil penalties if more than one civil penalty is proposed, in accordance with NUREG/BR-0254 and by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, a statement indicating when and by what method payment was made, or may protest imposition of the civil penalties in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should S&M Testing fail to answer within 30 days of the date of this Notice, the NRC will issue an order imposing the civil penalties. Should S&M Testing elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalties, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violation(s) listed in this Notice, in whole or in part; (2) demonstrate extenuating circumstances; (3) show error in this Notice; or (4) show other reasons why the penalties should not be imposed. In addition to protesting the civil penalties in whole or in part, such answer may request remission or mitigation of the penalties.

In requesting mitigation of the proposed penalties, the response should address the factors addressed in Section VI.C.2, "Civil Penalty Assessment," of the Enforcement Policy. Any written answer addressing these factors pursuant to 10 CFR 2.205, should be set forth separately from the statement or explanation provided pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing civil penalties.

Upon failure to pay any civil penalties which subsequently have been determined in accordance with the applicable provisions of 10 CFR 2.205 to be due, this matter may be referred to the Attorney General, and the penalties, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The responses noted above, i.e., Reply to Notice of Violation, Statement as to payment of civil penalties, and Answer to a Notice of Violation, should be addressed to: Cynthia A. Carpenter, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region I.

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), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. If personal privacy or proprietary information is necessary to provide an acceptable response, then 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 that such material is withheld from public disclosure, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim (e.g., explain why the 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). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

Dated this 23rd day of March 2009.