



April 15, 2010

Mr. Sattar Lodhi, Ph.D.
Senior Health Physicist
U.S. Nuclear Regulatory Commission
Division of Nuclear Materials Safety
Region I 475 Allendale Road
King of Prussia, PE 19406-1415

**RE: REPLY TO A NOTICE OF
VIOLATION, WESTERN SOIL, INC.
(52-21368-01)**

Mr. Sattar Lodhi:

Based on your letter of March 23, 2010, identified as NRC Inspection Report No. 03020563/2010001, Western Soil, Inc., Mayaguez, Puerto Rico and Notice of Violation, this is in reply to the notice of violation.

As stated in your communication, five (5) violations were indicated in your missive, as encountered and interpreted by you.

On the letter of March 23, 2010, the inspector alleged the following violations:

1. Failure to include the required information in shipping papers
2. Failure to affix legible labels on shipping containers
3. Failure to conduct inventory of sealed sources every six months
4. Failure to test sealed sources for leakage at the required intervals
5. Failure to provide the required operating and emergency procedures to personnel working at temporary job sites and to maintain records of daily use of portable gauges

The following document "Reply to a Notice of Violation" is our understanding, interpretation, and corrective action if any, of the alleged violations:

258 MCKINLEY ST. MAYAGÜEZ, PR 00882 / PO BOX 345 MAYAGÜEZ, PR 00881-0345
PHONE 787-832-7612
FAX 787-832-6360

NMCC/DON MATERIALS-004

REPLY TO A NOTICE OF VIOLATION,
WESTERN SOIL, INC.
(52-21368-01)

2

Reply to a Notice of Violation

1. Failure to include the required information in shipping papers:

The information was correct in the "Bill of Landing". The only thing which was incorrect was the UN Number. It was corrected and located on each vehicle, which transport gauges to projects, on March 8, 2010. The corrected "Bill of Landing" was faxed to your office on March 10, 2010.

2. Failure to affix legible labels on shipping containers:

As stated previously on our preliminary response letter, it is a policy of this office to replace all the labels in the transport package of the nuclear gauges. This replacement is done every time we send a gauge to manufacturing, for maintenance and calibration. On March 5, 2010 at the time of your visit, we had previously started the maintenance cycle for gauges in use, meaning as stated above, the replacement of safety labels. This included changing the UN number. In addition, we ordered new labels to the provider to replace them in the gauges on storage and the ones out of service. As you clearly noticed on your inspection, four (4) gauges were storage out of service due to breakdown of construction business. Our license clearly established on item #13c, that the gauges out of use need not be tested for leakage if they are stored safely and not in use.

3. Failure to conduct inventory of sealed sources every six months:

You informed us that we were not able to show evidence of six month inventory of sealed sources. On March 2010 we faxed you a "Check List" of our interpretation of an inventory of sealed sources. You indicated that this was incorrect. That there was a form in "The Consolidated Guidance About Materials Licenses". Since then, we have implemented this form.

4. Failure to test sealed sources for leakage at the required intervals:

You informed us that we were not able to show evidence of current "Leak Tests". According to our license (9/15/2004), we have currently performed these tests only to four of our active gauges. The remaining four are not currently in use, due to the critical economic condition of our country. Because we do not have too may inspections to projects in soil density tests, we have been forced to reduce our staff and store temporarily the gauges that were used by the staff that has been laid off. The license indicates in #13c that the gauges out of use need not be tested for leakage if they are stored safely and not in use.

REPLY TO A NOTICE OF VIOLATION,
WESTERN SOIL, INC.
(52-21368-01)

3

During your visit, you had access to recent leak tests for four gauges. The four in use have their leak tests every time they go to maintenance. During your visit as explained before, there were two gauges sent out for maintenance and the remaining is on schedule for leak tests, including the out of service gauges. The leak tests cycle started on March 2, 2010 (two gauges), continuing on March 18, 2010 (three gauges) and three remaining gauges should be completed early May 2010. Copy of the leak tests report will be provided upon request.

5. Failure to provide the required operating and emergency procedures to personnel working at temporary job sites, and to maintain records of daily use of portable gauges:

On March 8 we replaced all the "Notices" in the appropriate places, cell, vehicles and bulletin boards. In addition, as previously informed and documented, safety meetings were provided to our gauges users by the RSO. Copy of yearly user safety meetings were sent to your office by fax on March 11, 2010. In addition, starting 2010 we contracted external sources for this safety meetings refreshers course.

In all our previous inspections we have never been requested in maintaining a "Daily Log Sheet" of our nuclear gauges. As you requested, on March 8 we also implemented this system and copy of this was sent to you on March 10, 2010. The log record includes the date of removal and returned of gauges, serial number, user name, and job site location. This log will be kept daily and copy of this will be provided upon request.

Finally, Western Soil, Inc. is an organization, which maintains the law and order as north and goal. In the last ten (10) years this office has only been object of two (2) meters nuclear robberies reported events to NRC, as indicated in our NRC license or authorization. All the previous inspections by NRC personnel have been with satisfactory results, which mean no violations to procedures. This satisfactory inspection results is an indicative of no violation or security violation during our possession, operation, handling and safety procedures of meters.

In the last years due to changes in secretarial and clerical personnel, we have identified filing problems on nuclear gauges and NRC documents. As a result, we implemented a new file record and have allowed our secretary to be able to assist you with any documentation regarding this matter.

Respectfully,



Max Laracuente Bernat, RSO
Western Soil, Inc.

