December 17, 2010

EA-10-229

Mr. Carl L. Jacobi, President
Jacobi Geotechnical Engineering, Inc.
798 Hoff Road
O'Fallon, MO 63366

SUBJECT: NOTICE OF VIOLATION – JACOBI GEOTECHNICAL ENGINEERING, INC.
NRC INSPECTION REPORT NO. 030-35293/2010-001(DNMS)

Dear Mr. Jacobi:

This refers to a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on October 21, 2010, at your O'Fallon, Missouri, facility. The purpose of this inspection was to examine activities conducted under your license as they relate to safety and compliance with the NRC's rules and regulations, and with the conditions in your license. An apparent violation of your license was identified during the inspection and considered for escalated enforcement. The apparent violation involved your staff's failure to use two independent physical controls that formed tangible barriers when transporting portable gauges to and from temporary job sites when the gauges were not under the control and constant surveillance of a licensee employee. The circumstances surrounding the violation, the significance of the issues, and the need for lasting and effective corrective action were discussed with you at the inspection exit meeting on October 21, 2010. The inspection report discussing this apparent violation was transmitted to you via our letter dated November 17, 2010.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation identified in the report by either attending a Predecisional Enforcement Conference or by providing a written response before we made our final enforcement decision. You provided a written response in a letter dated November 30, 2010.

Based on the information developed during the inspection and the information provided in your written response, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the subject inspection report.

On occasions through October 21, 2010, your staff transported gauges to and from temporary job sites using only a single physical control. Specifically, your staff would store the gauges inside a locked transportation case affixed to a vehicle when not under the constant surveillance of an employee. The box was properly secured inside the vehicle using two physical controls that formed tangible barriers. However, only a single barrier – the box lock – secured the gauge inside its transportation case. This was a violation of NRC requirements, specifically Title 10 of the Code of Federal Regulations (10 CFR) 30.34(i).

The NRC determined that the cause of the violation was that you did not fully understand the basis for the requirement to have two independent physical controls, such that you believed the two barriers securing the transportation case constituted sufficient barriers without realizing that the gauge could be removed from its transportation case through breach of a single barrier. The failure to use two independent physical controls to secure your portable gauges is a significant regulatory concern in that it could have resulted in unnecessary radiation exposure to a member of the public if the gauges were stolen. Therefore, this violation has been categorized, in accordance with the NRC Enforcement Policy, at Severity Level III.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of $3,500 is considered for a Severity Level III violation. Because your facility has not been the subject of escalated enforcement actions within the last two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. Credit was warranted for your corrective actions which included: (1) providing a second barrier for the transit case lid during transport and at temporary job sites; (2) training all gauge users on the requirements; and (3) updating your training manual to incorporate guidance on how to properly secure portable gauges while in transit or at temporary job sites and not under the control and constant surveillance of the authorized user. Specifically, two chains or cables with padlocks will be used to secure the transit case to the vehicle. Either two locks or a properly taut chain with a padlock through the case handles as well as the integral case lock will secure the gauge inside the transit case.

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 Severity Level III violation constitutes escalated enforcement action, which 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 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 Inspection Report No. 030-35293/2010-001(DNMS) and your letter dated November 30, 2010. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's “Rules of Practice,” a copy of this letter, its enclosure, and your response, if any, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC’s Agencywide Documents

Access and Management 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 by Cynthia D. Pederson Acting for/

Mark A. Satorius
Regional Administrator

Docket No. 030-35293
License No. 24-32231-01

Enclosure:
Notice of Violation

cc w/encl: James Pyatt, RSO
State of Missouri

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OFFICE	RIII	RIII	RIII	OE	RIII	RIII
NAME	Lougheed	Bloomer	Reynolds	Day for Zimmerman[1]	Heller for Orth	Pederson for Satorius
DATE	12/14/10	12/16/10	12/16/10	12/14/10	12/17/10	12/17/10

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[1] OE concurrence received via e-mail from K. Day on December 14, 2010.

Letter to Carl L. Jacobi from Mark A. Satorius, dated December 17, 2010.

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NRC INSPECTION REPORT NO. 030-35293/2010-001(DNMS)

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NOTICE OF VIOLATION

Jacobi Geotechnical Engineering, Inc.
O'Fallon, Missouri

Docket No. 030-35293
License No. 24-32231-01
EA-10-229

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on October 21, 2010, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

> Title 10 of the Code of Federal Regulations (10 CFR), Section 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, on occasions through October 21, 2010, the licensee did not use a minimum of two independent physical controls that formed tangible barriers to secure portable gauges from unauthorized removal whenever the portable gauges were not under the control and constant surveillance of the licensee. Specifically, the licensee transported portable gauges containing licensed material to and from temporary job sites in Missouri and used only one independent physical control to secure the gauge inside its transportation case and did not always maintain control or constant surveillance over the gauge.

This is a Severity Level III violation (Section 6.3).

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 Inspection Report No. 030-35293/2010-001(DNMS) and your letter dated November 30, 2010. 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-10-229," 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 and the Enforcement Officer, Region III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532, 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, U.S. 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 Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at

http://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 of receipt.

Dated this 17th day of December 2010