

January 18, 2011

EA-10-253

Luis Garcia, P.E.
President
Geo Cim, Inc.
Amelia Distribution Center
Emma Street, Lot 26A
Guaynabo, PR 00968-8007

SUBJECT: NOTICE OF VIOLATION - NRC Inspection Report No. 03020896/2010001

Dear Mr. Garcia:

This refers to the U.S. Nuclear Regulatory Commission (NRC) inspection conducted on October 5-7, 2010, at the Geo Cim, Inc. (GCI) office located in Guaynabo, Puerto Rico (PR), and at the Portugues Dam Project located in Ponce, PR. The inspection consisted of an examination of your licensed activities as they relate to radiation safety and to compliance with the NRC's requirements and the conditions of your NRC license. In addition to the on-site reviews, the inspection also involved in-office review of additional information GCI provided the NRC in correspondence dated November 28, 2010. This information related to the corrective actions implemented in response to apparent violations identified during the inspection. The inspection results were discussed with you by telephone during an exit meeting on December 6, 2010, and were transmitted to you in a letter dated December 28, 2010, which enclosed the subject inspection report.

The NRC's December 28, 2010, letter stated that, based on the results of the inspection, the NRC identified four apparent violations. In a telephone conversation on December 16, 2010, Marie Miller and Scott Wilson of my staff informed you that the NRC was considering escalated enforcement for one of the apparent violations, and that we had sufficient information regarding that apparent violation and your corrective actions to make an enforcement decision without the need for a predecisional enforcement conference (PEC) or a written response from you. You indicated that a PEC would not be necessary, and that GCI did not plan to submit a written response. Therefore, based on the information developed during the inspection and the information that GCI provided in its communication noted above, 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 the violation are described in detail in the inspection report. The violation involved the failure by GCI, on multiple occasions, to use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal whenever the gauges were not under GCI's control and constant surveillance. During the inspection, the NRC observed that GCI transported its gauges to temporary jobsites in robust metal containers (boxes) with an access door on one side, and that the boxes were physically

secured to the cargo bed of company owned pickup trucks. The inspector observed that, while some of the boxes had double locking mechanisms on the access doors, others had only one locking mechanism. GCI personnel acknowledged to the inspector that, on occasion, the gauges would be inside these boxes at times when they were not under the control and constant surveillance of the licensee. Therefore, at those times, the gauges were not secured with two independent physical controls, as required by 10 CFR 30.34(i).

Although no gauges were lost or stolen, not securing portable gauges with two independent physical controls could make it easier for the gauges to be accessed and removed by unauthorized individuals, resulting in a potential safety and security risk to the public. Therefore, in accordance with the NRC Enforcement Policy, the NRC has categorized this violation at Severity Level (SL) III.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3,500 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 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. The NRC has concluded that credit is warranted for your corrective action which involved installing an additional physical control (i.e., lock and chain) to the boxes. 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 in the future.

Three additional violations, also documented in the Notice, have been categorized in accordance with the NRC Enforcement Policy at SL IV. The circumstances surrounding these violations are documented in detail in the above-referenced inspection report.

The NRC has concluded that information regarding the reason for the violations, the corrective action taken to correct the violations and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket in this letter and its enclosure, in the communication provided to the NRC in correspondence dated November 28, 2010, and in Inspection Report No. 03020896/2010001. 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, the enclosure, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. 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). The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Sincerely,

/RA/

William M. Dean
Regional Administrator

Docket No. 03020896
License No. 52-17776-02

Enclosure:
Notice of Violation

cc w/encl:
Rolando Davila, Radiation Safety Officer
Commonwealth of Puerto Rico

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Sincerely,

/RA/

William M. Dean
Regional Administrator

Docket No. 03020896
License No. 52-17776-02

Enclosure:
Notice of Violation

cc w/encl:
Rolando Davila, Radiation Safety Officer
Commonwealth of Puerto Rico

SUNSI Review Complete: MMM

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*HQ to perform a quick review. ** see previous concurrence page

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C Scott, OGC

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ENCLOSURE 1

NOTICE OF VIOLATION

Geo Cim, Inc.
Guaynabo, Puerto Rico

Docket No. 030-20896
License No. 52-17776-02
EA-10-253

Based on an NRC inspection on October 5-7, 2010, as well as an in-office review of information provided by Geo Cim Inc. (GCI) in correspondence dated November 28, 2010, for which a telephonic exit meeting was held on December 6, 2010, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 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 multiple occasions between August 25 and October 5, 2010, GCI failed to utilize two independent physical controls that formed tangible barriers to secure its portable gauges from unauthorized removal. Specifically, at times when GCI's portable gauges were not under its control and constant surveillance, the licensee temporarily stored gauges in open pick-up trucks within metal containers that had only a single locking mechanism.

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

- B. 10 CFR 20.1101(c) requires that a licensee shall periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, between May 10, 2005, and October 5, 2010, GCI did not perform a review of the radiation protection program content and implementation.

This is a Severity Level IV violation (Section 6.7).

- C. Condition 15 of NRC License No. 52-17776-02, requires, in part, that the licensee conduct a physical inventory every six months to account for all sources or devices received and possessed.

Contrary to the above, between May 10, 2005, and October 5, 2010, GCI did not conduct a physical inventory every six months to account for all sources or devices received and possessed. Specifically, the physical inventories conducted by GCI did not account for six portable nuclear density gauges that were maintained in storage at the office located at the Amelia Distribution Center, Guaynabo, Puerto Rico.

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

- D. Condition 18 of NRC License No. 52-17776-02 requires the licensee to conduct licensed activities in accordance with 10 CFR 71.5 regarding transportation of licensed materials.

10 CFR 71.5(a) requires, in part, that each licensee who transports licensed material outside 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, shall comply with the applicable requirements of the Department of Transportation (DOT) regulations in 49 CFR parts 107, 171 through 180, and 390 through 397.

49 CFR 171.8 defines a hazmat employee, in part, as a person who is employed by a hazmat employer and who in the course of such employment directly affects hazardous materials transportation safety, including individuals who load, unload, or handle hazardous materials; prepare hazardous materials for transportation; are responsible for safety of transporting hazardous materials; and operate a vehicle used to transport hazardous materials. This regulation defines a hazmat employer, in part, as a person who employs or uses at least one hazmat employee on a full-time, part time, or temporary basis; and who transports hazardous materials in commerce.

49 CFR 172.702 requires, in part, that each hazmat employer shall ensure that each of its hazmat employees is trained and tested by appropriate means on the training subjects covered in 49 CFR 172.704, and that no hazmat employee may perform any function subject to the requirements of 49 CFR Parts 171-180 unless instructed in the applicable requirements.

49 CFR 172.704(c) requires, in part, that a hazmat employee receive initial training within 90 days after employment or a change in job function, and recurrent training at least once every three years.

Contrary to the above, GCI did not provide training for its hazmat employees which satisfied the requirements in 49 CFR Part 172 in that, on multiple occasions in 2010, GCI employees transported licensed material from the storage location in Guaynabo, Puerto Rico, over public roads to and from temporary jobsites, without having completed the necessary training required by 49 CFR 172.704(c). Specifically, licensee records indicate that, of the employees that had transported gauges during the time period specified above: 1) two employees had not received recurrent training since 2005, a period of more than three years; and, 2) one employee had not received recurrent training since 2003, a period of more than three years.

This is a Severity Level IV Violation (Section 6.3)

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in the letter transmitting this Notice, in the communication provided to the NRC in correspondence dated November 28, 2010, and in Inspection Report No. 03020896/2010001. Therefore, no response to this Notice is 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-10-253," 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.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's document 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.

Notice

3

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

Dated this 18th day of January 2011.