



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BLVD
ARLINGTON, TEXAS 76011-4511

May 30, 2013

Mr. Charles K. Biegel, Radiation Safety Officer
Island Geotechnical Engineering, Inc.
330 Ohukai Road, Suite 113
Kihei, Hawaii 96753

SUBJECT: NRC INSPECTION REPORT NO. 030-34424/2013-001 AND NOTICE OF VIOLATION

Dear Mr. Biegel:

This letter refers to the routine, unannounced inspection conducted on February 28, 2013, at your facility in Kihei, Hawaii. The inspection continued with in-office reviews until April 15, 2013. The inspection was an examination of activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations and with the conditions of the license. Within these areas, the inspection consisted of selected examination of procedures and representative records and an interview with you. Preliminary inspection findings were discussed with you at the conclusion of the onsite inspection. A final telephonic exit briefing was conducted with you on May 1, 2013.

Based on the results of this inspection, the NRC has determined that six Severity Level IV violations of NRC requirements occurred. The violations were evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violations are cited in the enclosed Notice of Violation (Notice) because they were identified by the NRC during the inspection. The violations involved the failure to: (1) maintain inventories of nuclear material at or below the maximum possession limits authorized in the License; (2) provide the recurrent training for hazmat employees transporting radioactive material; (3) lock portable gauges or their containers when in storage and not under direct surveillance of an authorized user; (4) periodically (at least annually) review the radiation protection program; (5) make radiation surveys to assure compliance Title 10 of the Code of Federal Regulations (CFR) 30.1301(a)(2); and (6) follow operating procedures to sign out portable gauges in a log book.

Under other circumstances, the first violation could have been more significant; however, as documented in your letter dated March 04, 2013 [ML13080A634], you requested a license amendment to increase your maximum possession limits for your portable gauge inventory. This letter documents your immediate corrective actions for the first violation, which is categorized at Severity Level IV.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful. You can find the Information Notice on the NRC Web site at

<http://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, 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 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).

Should you have any questions regarding this letter or the enclosed Notice, please contact Ms. Latischa Hanson at 817-200-1286 or the undersigned at 817-200-1130.

Sincerely,

/RA/

G. Michael Vasquez, Chief
Nuclear Materials Safety Branch A
Division of Nuclear Materials Safety

Docket: 030-34424
License: 53-29108-01

Enclosure:
Notice of Violation (Notice)

cc w/encl: Hawaii Department of Health
Radiation Section Supervisor

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cc w/encl: Hawaii Department of Health
Radiation Section Supervisor

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NOTICE OF VIOLATION

Island Geotechnical Engineering, Inc.
Kihei, Hawaii

Docket: 030-34424
License: 53-29108-01

During the U.S. Nuclear Regulatory Commission (NRC) inspection conducted from February 28, 2013, through April 15, 2013, six violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. Condition 8A. of byproduct materials License 53-29108-01, Amendment No. 03, states the maximum activity the licensee may possess at any one time under this license is 9 millicuries each and 60 millicuries total of cesium-137.

Additionally, Condition 8B. of byproduct materials License 53-29108-01, Amendment No. 03, states the maximum activity the licensee may possess at any one time under this license is 44 millicuries each and 300 millicuries total of americium-241.

Contrary to the above, since April 2012, the licensee failed to maintain nuclear material within maximum possession limits specified in the license. Specifically, around April 2012, the licensee obtained an additional portable nuclear gauge, Troxler Electronic Laboratories, Inc., Model 3440, Serial Number 31379, containing 9 millicuries of cesium-137, and 44 millicuries of americium-241, which exceeded the maximum possession allowances 60 millicuries total of cesium-137 and 300 millicuries total of cesium-137 of license conditions 8A. and 8B of byproduct materials License 53-29108-01, Amendment No. 03.

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

- B. 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.

49 CFR 172.704(a) specifies the elements of hazmat employee training as: (1) general awareness/familiarization training; (2) function-specific training; and (3) relevant training, 172.704(c) requires that a hazmat employee receive initial training within 90 days of employment, and recurrent training at least once every three years.

Contrary to the above, the licensee failed to provide the recurrent training for its hazmat employees transporting radioactive material, which satisfied the requirements in Subpart H to 49 CFR Part 172. Specifically, hazmat employees had not received recurrent training from September 27, 2007 through February 28, 2013, a period which exceeded the three-year interval specified above.

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

- C. Condition 16 of NRC License 53-29108-01, requires, in part, that each portable nuclear gauge shall have a lock or outer locked container designed to prevent accidental removal of the sealed source from its shielded position. The gauge or its container must be locked when in storage.

Enclosure

Contrary to the above, on February 28, 2013, the licensee failed to have a lock or outer locked container for the portable gauges designed to prevent accidental removal of the sealed source from the shielded position. Specifically, the licensee had the portable gauges stored in a gauge storage cabinet, and neither the cabinet nor the gauges were locked.

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

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

Contrary to the above, the licensee failed to periodically (at least annually) review with radiation protection program content and implementation. Specifically, between September 2010 and September 2011, the licensee did not review its radiation protection program.

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

- E. 10 CFR 20.1501 requires that each licensee make or cause to be made, surveys that may be necessary for the licensee to comply with the regulations in Part 20 and that are reasonable under the circumstances to evaluate the extent of radiation levels, concentrations or quantities of radioactive materials, and the potential radiological hazards that could be present.

Pursuant to 10 CFR 20.1003, *survey* means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of radioactive material or other sources of radiation.

Contrary to the above, as of November 8, 2007, the licensee did not make surveys to assure compliance with 10 CFR 20.1301(a)(2), which limits exposure in any unrestricted area from external sources to 0.002 rem (0.02 millisevert) in any one hour. Specifically, the licensee moved to a new address and building suite in November 2007 and failed to make surveys to ensure compliance with 10 CFR 20.1301(a)(2).

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

- F. Condition 21 of NRC License 53-29108-01, requires, in part, that the licensee conduct its program in accordance with the statements, representations, and procedures contained in the renewal application dated March 21, 2007 and facsimile dated April 24, 2007. The application and facsimile contained the licensee's "commitment to implement and maintain the operating, emergency procedures described in the errata sheet to Appendix H of NUREG-1556, Volume 1. Item 10 of the license application states, in part, that the licensee will implement and maintain the operating procedures in Appendix H to NUREG-1556, Volume 1.

The operating procedures in Appendix H to NUREG-1556, Volume 1 state, in part, that the licensee shall sign out the gauge in a log book, including the date of use, name of authorized user who will be responsible for the gauge, and the temporary job site where the gauge will be used.

Contrary to the above, between September 27, 2007, and February 28, 2013, gauge users transported gauges to temporary job sites without signing out the gauges in a log book, to include the date of use, name of authorized user who was responsible for the gauge, and the temporary job site where the gauge was used.

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

Pursuant to the provisions of 10 CFR 2.201, Island Geotechnical Engineering, Inc., is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, Region IV, 1600 E. Lamar Blvd., Arlington, Texas, 76011, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for the violation: (1) the reason for the violation or, if contested, the basis for disputing the violation or severity level; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken; and (4) the date when full compliance was, or will be, achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

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.

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

Dated this 30th day of May 2013.