

March 20, 2014

IA-13-033

George Geisser, III
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

SUBJECT: ORDER PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITIES AND
NOTICE OF VIOLATION (NRC Office of Investigations Report No. 1-2012-053)

Dear Mr. Geisser:

This letter refers to an investigation initiated on June 20, 2012, by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI). The purpose of the investigation was to determine if you, as the President and Owner of Geisser Engineering Corporation (GEC), deliberately engaged in the use of licensed material in NRC jurisdiction without filing for reciprocity with the NRC. Based on the results of the OI investigation, the NRC concluded that you deliberately engaged in the use of licensed material in NRC jurisdiction without filing for reciprocity with the NRC.

On May 9, 2012, the NRC conducted an unannounced reciprocity inspection at GEC's office located in Riverside, Rhode Island, with continued in-office review following completion of the above investigation through August 15, 2013. The inspection was an examination of your activities conducted under the general license pursuant to Title 10 of the Code of Federal Regulations (CFR) 150.20. During the inspection, an apparent violation was identified involving GEC's failure to file the required NRC Form 241, "Report of Proposed Activities in Non-Agreement States," a copy of its Agreement State specific license, and the appropriate fee, with the Regional Administrator of the appropriate NRC regional office at least three days prior to using portable gauge devices containing byproduct material in NRC jurisdiction. Specifically, the NRC determined that the apparent violation occurred on 22 occasions between October 21, 2009, and June 23, 2011, within the State of Connecticut, a Non-Agreement State, and at the Newport Naval Station, an area of exclusive Federal jurisdiction within the Agreement State of Rhode Island. The NRC's Office of Investigations (OI) subsequently conducted an investigation and determined you deliberately engaged in the use of licensed material in NRC jurisdiction without filing for reciprocity.

In a letter dated August 16, 2013, addressed to you as an individual, the NRC provided you with a factual summary of the OI report and informed you that the NRC had determined, based on the OI investigation, that you violated 10 CFR 30.10, when you deliberately conducted and directed employees of GEC to use portable gauges in NRC jurisdiction. The NRC letter also informed you that the NRC was considering escalated enforcement action against you for this apparent violation, and offered you the opportunity to discuss the violation during a predecisional enforcement conference (PEC) or to engage the NRC in an alternative dispute resolution (ADR) mediation session.

In a separate letter dated August 16, 2013, (ML13228A286), addressed to you as the President of GEC, the NRC informed you that the NRC was also considering escalated enforcement

action against GEC for an apparent violation involving the failure to file for reciprocity prior to conducting work in NRC jurisdiction. In the letter to GEC, the NRC also provided GEC the opportunity to discuss the violation during a PEC or to engage the NRC in an ADR mediation session.

At your request, a PEC was held on November 20, 2013, in the NRC's Region I office to discuss the apparent violations to GEC and to you as an individual. During the PEC, you acknowledged that you engaged in the use of licensed material in NRC jurisdiction without filing for reciprocity with the NRC. However, you disagreed that your actions were deliberate. You stated that you had previously been cited by the Commonwealth of Massachusetts (Commonwealth) for deliberately performing licensed activities in its jurisdiction without filing for reciprocity; however, you also stated that you did not deliberately conduct the same activities in the State of Connecticut or at the Newport Naval Station in Rhode Island without filing for reciprocity with the NRC. You further stated that you thought your Rhode Island license covered licensed activities for all locations within Rhode Island. A summary of the conference is enclosed. (Enclosure 1)

After considering the information developed during the investigation and the information that you provided during the conference, the NRC maintains that you deliberately engaged in the use of licensed material in NRC jurisdiction without filing for reciprocity. In part, based on GEC's prior violation with the Commonwealth and on the State of Rhode Island's multiple notifications to you of the requirement to file for reciprocity in Agreement State jurisdictions and in NRC jurisdiction, the NRC has determined that you had extensive prior notice of reciprocity requirements in general and the requirement to file for reciprocity with the NRC prior to engaging in licensed activities in NRC jurisdiction in particular. Therefore, the NRC has determined that you violated 10 CFR 30.10(a)(1). In determining the appropriate enforcement action for this violation, the NRC considered your position as the President of GEC, your repeated failure to file for reciprocity in NRC jurisdiction, and your failure to address or acknowledge your failure to file for reciprocity in NRC jurisdiction. The NRC has categorized the violation at Severity Level (SL) II, in accordance with the NRC Enforcement Policy. The violation is set forth in the enclosed Notice of Violation (Enclosure 2).

With regard to your deliberate actions, the NRC has decided to issue an Order that prohibits your involvement in NRC-licensed activities for a period of 3 years because your actions have resulted in the loss of reasonable assurance that you may be relied upon, at this time, to comply with NRC requirements. This Order, which is set forth in Enclosure 3, also requires you to provide to the NRC in writing the name, address, and telephone number of the employer for your first subsequent employment in NRC-licensed activities following completion of the 3 year prohibition.

In accordance with 10 CFR 2.202, you must provide an answer to the enclosed Order in writing, and under oath or affirmation, within 20 days of the Order's issuance. In addition, you or any other person adversely affected by this Order may request a hearing on this Order within 30 days of the Order's issuance.

You must also respond in writing to the attached Notice of Violation (Notice). Please follow the instructions in the Notice of Violation and in Section V of the Order when preparing your response. Because you must respond to both the Order and the Notice, you may submit one response to satisfy both requirements. As stated above, your response must be received within 20 days of issuance of the Order. The NRC will use your response, in part, to evaluate the

appropriateness of the enforcement action as well as whether further enforcement action is necessary to ensure compliance with regulatory requirements.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of the enclosed Order shall be subject to criminal prosecution as set forth in that section. Violation of the enclosed Order may also subject the person to civil monetary penalty.

Instead of providing a response to the Notice and the Order, you may request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve this issue. This request must be made within 20 days of the issuance of the Order. ADR is a general term encompassing various techniques for resolving conflict outside of court using a neutral third party. The technique that the NRC has decided to employ is mediation. Additional information concerning the NRC's program is described in the enclosed brochure (NUREG/BR-0317) and can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution at Cornell University has agreed to facilitate NRC's program as an intake neutral.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's Agency-wide 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/>).

Because this letter references and encloses information related to an enforcement action against an individual, this letter and its enclosures will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." This system, which is not publicly - accessible, includes all records pertaining to individuals who are being considered for, or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Sincerely,

/RA/

Roy P. Zimmerman
Director, Office of Enforcement

Enclosures:

1. Geisser Engineering Corporation Predecisional Enforcement Conference Summary
2. Notice of Violation
3. Order Prohibiting Involvement in NRC-Licensed Activities
4. NUREG/BR-0317, Post-Investigation ADR Program

cc w/ enclosures: State of Rhode Island

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Sincerely,

/RA/

Roy P. Zimmerman
Director, Office of Enforcement

Enclosures:

1. Geisser Engineering Corporation Predecisional Enforcement Conference Summary (ML14070A587)
2. Notice of Violation (ML14071A388)
3. Order Prohibiting Involvement in NRC-Licensed Activities (ML14070A564)
4. NUREG/BR-0317, Post-Investigation ADR Program

cc w/ Enclosures: State of Rhode Island

Distribution: See next page

Publicly Available

ADAMS Package: ML14070A499

Cover Letter: ML14070A521

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