



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE RD. SUITE 210
LISLE, IL 60532-4352

February 14, 2022

EA-21-134

Mr. Rami Anabtawi
President
Geotechnical and Materials Engineers, Inc.
3517 Focus Drive
Fort Wayne, IN 46818

**SUBJECT: NOTICE OF VIOLATION AND EXERCISE OF ENFORCEMENT DISCRETION-
NRC ROUTINE INSPECTION REPORT NO. 03035029/2021001(DNMS) -
GEOTECHNICAL AND MATERIALS ENGINEERS, INC.**

Dear Mr. Anabtawi:

This letter refers to the U.S. Nuclear Regulatory Commission (NRC) inspection conducted on June 24, 2021, at your Fort Wayne, Indiana facility, with continued in-office review through September 23, 2021. The purpose of the inspection was to review activities performed under your NRC license to ensure that activities were being performed in accordance with NRC requirements. During the inspection, apparent violations of NRC requirements occurred. Mr. Jason Draper of my staff discussed the circumstances surrounding the apparent violations, the significance of the issues, and the need for lasting and effective corrective actions with you at the inspection exit meeting on October 7, 2021. The inspection report, dated November 2, 2021, can be found in NRC's Agencywide Documents Access and Management System (ADAMS) at accession No. ML21300A137. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

In the letter transmitting the inspection report, we provided you the opportunity to address the apparent violations identified in the report by either attending a predecisional enforcement conference, providing a written response, or attending an alternate dispute resolution session before we made our final enforcement decision. In a letter dated December 9, 2021, (ML21362A728) your staff provided a written response to the apparent violations.

Based on the information developed during the inspection and the information your staff provided in response to the inspection report dated December 9, 2021, the NRC has determined that two escalated violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the subject inspection report. The first violation involved the failure to confine the possession of NRC regulated byproduct material to the locations authorized by your license. Specifically, between January 15, 2021, and August 16, 2021 a portable moisture density gauge was stored at a location not authorized by your license.

The second violation involved the failure to secure a portable moisture density gauge from unauthorized removal with a minimum of two independent physical controls that form tangible barriers when the portable gauge is not under the control and constant surveillance of the

licensee. Specifically, between January 15, 2021, and June 24, 2021 a portable gauge was stored in a storage unit, and the gauge was secured with only one tangible barrier while it was not under the control and constant surveillance by your staff.

The failure to store a portable moisture density gauge at locations authorized on the license and without properly securing the gauge is a significant safety and security concern to the NRC. Storing the gauge at a location not approved on the license prevents the NRC from its regulatory oversight function to ensure that storage locations are appropriate for storing and securing the radioactive material to prevent undue risk to the public. Therefore, these violations are categorized collectively in accordance with the NRC Enforcement Policy as a Severity Level III problem.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$8,000 is considered for a Severity Level III problem.

Because your facility has been the subject of escalated enforcement actions within the last two inspections¹ the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy.

The NRC determined that credit was not warranted for *Identification* because the violations were identified by an NRC inspector. However, the NRC determined that credit was warranted for *Corrective Action*. Based on the information in your staff's December 9, 2021, letter, corrective actions included: (1) leak testing the portable moisture density gauge and moving it back to your authorized storage location; (2) developing a procedure where an item cannot be moved to offsite storage without a supervisor signing a detailed list of items to be moved and then the RSO and vice president of operations combined written approval; (3) securing the gauge with a chain and lock within the storage unit in addition to the locked door on the storage unit until it was transferred back to the authorized storage location; and (4) retraining the gauge users that two barriers are needed to properly secure a gauge. Additionally, you notified the NRC that the gauge stored at the unauthorized location was transferred to an authorized recipient.

Therefore, after consultation with the Director of the Office of Enforcement and based on your corrective actions and ultimately transferring the gauge to another authorized recipient, the NRC is exercising discretion not to propose a civil penalty in accordance with Section 3.5 of the Enforcement Policy, "Violations Involving Special Circumstances." However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III problem constitutes an escalated enforcement action that may subject you to increased inspection effort. The NRC also includes significant enforcement actions on its Web site at <https://www.nrc.gov/about-nrc/regulatory/enforcement>.

In addition, a Severity Level IV violation of NRC requirements occurred and is being cited in the enclosed Notice. The circumstances surrounding it are described in detail in the subject inspection report. This violation was also evaluated in accordance with the NRC Enforcement Policy.

The NRC has concluded that information regarding: (1) the reason for the violations; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full

¹ A Severity Level III violation was issued on January 19, 2011 (EA-10-242), involving the failure to properly secure a portable moisture density gauge.

compliance was achieved is already adequately addressed on the docket in Inspection Report No. 03035029/2021001(DNMS) and your staff's December 9, 2021, letter. 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 and in the NRC's 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.

If you have any questions concerning this matter, please contact Shelbie Lewman, Acting Enforcement Officer of my staff at 630-829-9653 or shelbie.lewman@nrc.gov.

Sincerely,



Signed by Giessner, Jack
on 02/14/22

John B. Giessner
Regional Administrator

Docket No. 030-35029
License No. 13-32182-01

Enclosure:
Notice of Violation

NOTICE OF VIOLATION

Geotechnical and Materials Engineers, Inc.
Fort Wayne, Indiana

Docket No. 030-35029
License No. 13-32182-01
EA-21-134

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on June 24, 2021, with continued in-office review through September 23, 2021, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. Title 10 of the *Code of Federal Regulations* (CFR) 30.34(c) requires, in part, that each licensee confine its possession and use of byproduct material to the locations and purposes authorized by the license.

The NRC License number 13-32182-01, Amendment 9, dated February 20, 2020, License Condition 10, requires, in part, that licensed material may be used or stored at the licensee's facility located at 3517 Focus Dr., Fort Wayne, IN 46818.

Contrary to the above, between January 15, 2021, and August 16, 2021, the licensee did not confine its possession of byproduct material to the locations authorized by the license. Specifically, the licensee stored a Seaman Nuclear Corporation Model 75 portable moisture density gauge containing a nominal 4.5 millicurie radium-226 source at a storage unit under the licensee's control, a location not authorized by the license.

- B. Title 10 CFR 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, between January 15, 2021, and June 24, 2021, the licensee did not use a minimum of two independent physical controls that form tangible barriers to secure a portable gauge from unauthorized removal when the portable gauge was not under the control and constant surveillance of the licensee. Specifically, the licensee stored a gauge in a storage unit secured with only one tangible barrier to prevent unauthorized removal, the locked door of the storage unit.

This is a Severity Level III problem (Section 6.3 of the Enforcement Policy).

- C. The NRC License 13-32182-01, Amendment 9, dated February 20, 2020, License Condition 8.A., requires, in part, that the maximum amount the licensee may possess at any one time under this license for cesium-137 is 27 millicuries. License Condition 8.B. requires, in part, that the maximum amount the licensee may possess at any one time under this license for americium-241 is 132 millicuries.

Contrary to the above, between February 20, 2020, and August 11, 2021, the licensee failed to keep the maximum amount possessed at any one time under its license for cesium-137 and americium-241 to 27 and 132 millicuries, respectively. Specifically, the licensee possessed 48 millicuries of cesium-137 and 240 millicuries of americium-241.

This is a Severity Level IV (Section 6.3 of the Enforcement Policy)

Enclosure

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 Inspection Report No. 03035029/2021001(DNMS) and the licensee's letter dated December 9, 2021. 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-21-134" 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 III, 2443 Warrenville Road, Lisle, IL 60532-4352 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, United States 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 in the NRC's 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 14 day of February 2022.

NOTICE OF VIOLATION - NRC ROUTINE INSPECTION REPORT NO. 03035029/2021001(DNMS) -
 GEOTECHNICAL AND MATERIALS ENGINEERS, INC. DATE February 14, 2022

DISTRIBUTION: EA=21-134

ADAMS Accession No.: ML22027A738

OE-001

OFFICE	R-III/EICS	R-III/DNMS/MIB	NSIR/DPR	NMSS/MSST /MSEB
NAME	KLambert <i>KL</i>	MKunowski <i>MK</i>	KBrock <i>KB</i>	RSun <i>RS</i>
DATE	Feb 3, 2022	Feb 3, 2022	Feb 4, 2022	Feb 11, 2022
OFFICE	OE/EB	R-III	R-III	
NAME	LSreenivas <i>LS</i>	SLewman <i>SL</i>	JGiessner <i>JG</i>	
DATE	Feb 9, 2022	Feb 14, 2022	Feb 14, 2022	

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