

May 17, 2000

U.S. Department of Energy  
ATTN: Mr. David G. Huizenga  
Deputy Assistant Secretary  
for Integration and Disposition  
Environmental Management  
EM-20, Forrestall  
1000 Independence Avenue, SW  
Washington, D.C. 20585

Dear Mr. Huizenga:

We are requesting the assistance of the U.S. Department of Energy (DOE), to store or dispose of one Americium-241 ( $\text{Am}^{241}$ ), sealed source contained in a Seamen Nuclear model R-50 (AKA XL-100) portable moisture-density gauge. The device contains approximately 40 mCi (1.48 GBq)  $\text{Am}^{241}$  in an Amersham model AMN.PE5 sealed source, and was received at the Middle Peninsula Landfill in Glenn, VA.

The device and sealed source were previously possessed under an NRC license by Moisture Protection Systems Analysts, Inc. (MPSA), in McLean, Virginia. However, on April 28, 1998, NRC issued MPSA an Order which, in part, revoked the license and required MPSA to transfer the gauge to an authorized recipient. The license was revoked, in part, because of MPSA's failure to comply with a earlier NRC Order, that had also required MPSA to transfer the gauge to an authorized recipient. The President of MPSA has not responded to repeated attempts by NRC to contact him, and MPSA has not complied with the terms of NRC's April 28, 1998, and earlier Orders. It is also our understanding that MPSA filed for bankruptcy in 1996.

In March, the MPSA case was referred to the Department of Justice (DOJ) for enforcement of NRC's Orders. Subsequent to the identification of the gauge at the landfill, we have discussed with DOJ pursuing the case as a criminal action. If DOJ pursues the case as a criminal action, the gauge may be required as evidence during a subsequent investigation and trial. Because of this, we have discussed with DOJ and Robert Campbell, of your staff, the need for temporary storage of the gauge until the case is settled, and a proper "chain of custody" of the gauge as evidence. We are pursuing several options for temporary storage of the gauge by an authorized person until such time as the case is settled, including temporary custody by the US Department of Transportation, and will advise you of the exact location of the gauge once this is accomplished.

The sealed source is classified as greater than class C pursuant to 10 CFR Section 61.55 and no commercial disposal options exist for the material. Efforts to find other transfer or disposal options have been unsuccessful and, in the current situation, the gauge presents a potential radiological threat to the public health and safety. We believe this situation meets the conditions of our Memorandum of Understanding, dated June 18, 1999, for emergency assistance by DOE with the proper disposition of the source once the MPSA case is settled with DOJ.

D. Huizenga

-2-

Additional information concerning the source and gauge is enclosed. The point of contact in our Region II office is Mr. Jay Henson. He can be reached by phone at (601) 354-6657, and can provide additional information concerning the exact location and condition of the gauge.

If you have any questions concerning this matter, do not hesitate to call me at (301) 415-7197, or Mr. Douglas Broaddus at (301) 415-5847.

Sincerely,

**/RA/**

Donald A. Cool, Director  
Division of Industrial and  
Medical Nuclear Safety  
Office of Nuclear Material Safety  
and Safeguards

Enclosure: Information for DOE Requests

cc: Robert Campbell, DOE

D. Huizenga

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