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May 29, 2002

Paul H. Lohaus, Director  
Office and State and Tribal Programs  
United States Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Dear Mr. Lohaus:

My staff has brought the following information to my attention and I would like to share the information with you to consider revision of the conclusions by audit team and Management Review Board for the September 2001 audit of Nevada radioactive materials program.

Staff reviewed the files for the Nevada licenses that the IMPEP team used to construct the summary of 32 licenses for the status of the audit indicator, "Status of the Materials Inspection Program".

License Inspections Counted Overdue Twice - Two licenses from the NRC list appear to have been counted twice by repeating the licenses in the initial overdue and routine overdue portions of the list when it appears that the two licenses were initially inspected overdue during the review period but were not due/overdue again for inspection during the review period.

Specifically, Quantech's license (00-11-0459-01) was issued on August 23, 2000, and was inspected on November 11, 2001, making it a completed overdue initial inspection during the review period, in accordance with the NRC policy. As a NRC Priority 3 license, it would not be due again until November 11, 2004.

Similarly, Las Vegas Surgery Center's license (03-12-0439-01) was issued on July 7, 1999, and was inspected on September 8, 2000, making it a completed overdue initial inspection during the review period, in accordance with the NRC policy. As a NRC Priority 3 license, it would not be due again until September 8, 2003.

It is not obvious me why these two licenses were listed twice in the summary of 32 overdue inspections, considering the above perspective.

License Inspections Conducted on Schedule - In addition, the audit team indicated the following four (4) licenses were inspected in overdue status during the review period; however, we believe the licenses were inspected during the

review period between August 30, 1997 – September 10, 2001 in compliance with the NRC IMC 2800 guidance as we understand it::

<u>License Name and Number</u>	<u>NRC Freq.</u>	<u>Done</u>	<u>NRC Due Date</u>	<u>NRC due date extension for staff convenience</u>
Michael Baron, MD 03-12-0259-01	5	1/31/96 5/8/97	1/31/01 5/8/02	8/8/03
Desert Springs Hospital 03-12-0040-01	3	7/14/95 8/4/97	7/14/98 8/4/00	8/4/02
Radiation Oncology Associates 01-12-0225-01	3	3/30/94 6/8/95 10/17/96 8/19/98 5/31/01	3/30/97 6/8/98 10/17/99 8/19/01 5/31/04	2/28/06
Radiation Oncology Associates. 16-12-0323-01	3	10/17/96 10/21/98 9/27/00	10/17/99 10/21/01 9/27/03	9/27/05

It appears that the audit team concluded that these licenses were overdue for inspection during the review period because the old/past Nevada schedule may have been used for the audit indicator compliance determination. We understood that the NRC schedule was supposed to be used to determine compliance with this indicator.

#### Revision of the Equation Used to Determine Indicator Status

Considering,

- reduction of the numerator of the calculation by 2 for the 2 licenses described above that we believe should not have been counted overdue twice, and
- reduction of the numerator of the calculation by 4 for the 4 licenses listed above that we believe were inspected on schedule in accordance with the NRC schedule and interpretations and we believe should not have been considered overdue and
- presuming that the referenced 6 licenses were included as completed and counted only once in the denominator,
- a complete explanation of the components of mathematical equation used in this indicator finding was not provided to staff during the audit. Since the audit, we have learned that the denominator is intended to include all completed inspections during the review, whether completed overdue or on-time per the NRC inspection schedule,

the calculation appears to become:

32 licenses inspected overdue - 2 (overdue licenses counted twice) - 4 (licenses inspected in compliance with NRC schedule)/110 total inspections completed (on schedule and overdue) =

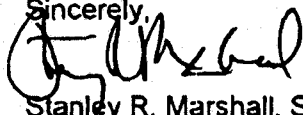
26/110 =

23.6% of licenses inspected overdue during the review period; not in excess of 25%

It appears that this information suggests that the audit team may have improperly concluded and recommended to the Management Review Board that the status of the Nevada Materials Inspection Program was unsatisfactory when the statistical equation, a threshold used in part we understand to make that conclusion, is not in excess of 25% overdue inspections.

I would appreciate your review and consideration of this information. If you have any questions, please feel free contact me at (775) 687-5394 x 276.

Sincerely,



Stanley R. Marshall, Supervisor  
Radiological Health Section  
Bureau of Health Protection Services

Enclosure

cc: Alan Tinney, Chief  
Bureau of Health Protection Services

sm\ram\2001NRCauditcalculation

**Stan Marshall - LIST OF LICENSEES WITH OVERDUE INSPECTIONS**

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**From:** "Patricia Larkins" <PML@nrc.gov>  
**To:** <SMARSHALL@bhps.state.nv.us>  
**Date:** 03/18/2002 12:11 PM  
**Subject:** LIST OF LICENSEES WITH OVERDUE INSPECTIONS  
**CC:** "Josephine Piccone" <JMP1@nrc.gov>, "Kathleen Schneider" <KXS@nrc.gov>, "Lance Rakovan" <LJR2@nrc.gov>

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As requested in your email of 3/8/02, attached is list of the names of the licensees that were found to have exceeded MC 2800 inspection frequencies, based on the information provided by Larry Boschult, of your staff.

Overdue Initial Inspections:

AAL Environmental LLC 16-11-0441-01  
Davis Marvin E & Associates 00-11-0421-01  
Heart Center of NV 03-12-0434-01  
\* Las Vegas Surgery Center 03-12-0439-01  
Lombardi Research Foundation 16-11-0448-01  
Lumos and Associates 00-11-0418-01  
\* Quantec Consulting, Inc. 00-11-0459-01

Non-Initial, Overdue Core Inspections:

✓ Michael Barron 259  
Davis Labs 113  
Desert Industrial X-Ray 360  
Desert Radiologists 168  
✓ Desert Springs Hospital 40  
Insight Mountain Diagnostics 268  
Lake Mead Hospital Medical Center 291  
\* Quantec 459  
✓ Radiation Oncology Associates 225 (X2) (i.e., two inspections were overdue)  
Radiation Oncology Associates 0035-04  
✓ Radiation Oncology Associates 323  
Radiation Oncology Center of Southern Nevada 393  
Radiation Oncology Center of Las Vegas 394  
St. Rose Dominican-Siena 284  
Stantec 438-01  
Steinberg 352  
Summerlin Medical Center 388  
Syncor 150  
UNLV 305-01  
Cooperheat/MQS 415  
Biotech 332  
\* Las Vegas Surgery Center 439  
Western Technologies 19  
Nevada Radiation Therapy Regional Center 429

\* = repeated license

✓ = inspected per NRC schedule

KENNY C. GUINN  
Governor

CHARLOTTE CRAWFORD  
Director



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Date: 5/29/02

Content: 6 pages (including cover sheet)

To: Paul Lohas, Director, STP, NRC 301-415-3502

From: STAN MARSHALL

Re: Signed hard copy mailed on 5/29/02.  
Call me to discuss if you prefer or hold  
till teleconference.

Authorized signature: Stan Marshall

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