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To: <i>M.R. JAY HENSON</i>	From: <i>E. ORDUÑA, MD</i>
Fax #: <i>404-562-4955</i>	Fax #: <i>787-767-0382</i>
Company: <i>NRC</i>	Tel #: <i>787-553-2236</i>
Subject: <i>REPLY TO NOTICE OF VIOLATION</i>	
Sent: <i>JULY 24, 2002</i>	Pages: (including cover) <i>5 PAGES.</i>

MESSAGE:

*As per our telephone conversation,  
this is the written response to  
a Notice of Violation. The original  
will go through regular mail.*

*Sincerely,*

*E Orduña*

Elba Orduña, MD  
 Call Box 7886 #150  
 Guaynabo, PR 00970  
 Email: [orduna@prtc.net](mailto:orduna@prtc.net)  
 Tel: 787-553-2236

Reply to: [redacted]  
 OI 2-2001-024 and Inspection Report No. 52-26340/01-01  
 7/23/02

July 23, 2002

Regional Administrator, Region II  
 U.S. Nuclear Regulatory Commission  
 Atlanta Federal Center  
 61 Forsyth Street, SW, Suite 23185  
 Atlanta, Georgia 30303-3415

RE: Reply to a Notice of Violation  
 OI 2-2001-024 and Inspection Report No. 52-26340/01-01

This is the information that you request in response to the "Notice of Violation" that I received on July 9, 2002.

#### Violation #1

Deliberately conducted licensed activities without the required capability for monitoring radioactive contamination.

1. The violation is not accepted as stated.
2. The reasons for the violation (as stated during the OI investigation) were attributed to problems with the equipment. (Please Refer to REPLY TO A NOTICE OF VIOLATION, October 28, 1998 for further details on a and b)
  - a. In November 1995 the Well Counter was not functional and we were using a Geiger counter to measure contamination but it was not suited for that purpose since it was measuring radiation levels in mrems/hr. A new GM with a pancake probe calibrated for cpm was then used to correct the problem.
  - b. An inspection conducted on July 13, 1998 found that the GM counter we were using to measure contamination was not suited for that purpose. The reason for this was that at the last calibration, it was overlooked that there was no Efficiency reported and the personnel was using the Efficiency from the previous calibration. The Well Counter was fixed at that time and we were able to comply with the regulation.
  - c. On the most recent inspection on May 14, 2002, the well counter was not functional and we were in the process of trying to resolve the problem.

As stated in the summary report of the OI, the RSO was responsible for assuring that the necessary equipment is maintained operational in order to comply with regulatory requirements. Also as stated by the report, the RSO proceeded in conducting licensed activities in violation of NRC requirements. As the RSO, I identified the problem and was in the process of trying to resolve it. In retrospect, the time that passed before the problem was corrected was too long. I am not aware of a Regulatory Guide that explains how soon activity must be halted once a problem has been identified. I will accept the violation as not responding in a timely matter but will not accept deliberately conducting licensed activities without regards to NRC regulations. In addition, the regulations (when applying for a license) never mention backup equipment for small facilities or a time frame on how soon problems are allowed to continue before the program must be shut down. This led me in believing that as long as the problem was in the process of being resolved, no violations would have occurred since the problem was self identified.

Reply to a Notice of Violation  
OI 2-2001-024 and Inspection Report No. 52-26340/01-01  
Page 2 of 2

3. Corrective actions:

- a. Purchasing a second wipe test counter as an emergency backup. Since this was the third repeat of this violation, this will assure that this will never be a problem again. The second wipe test counter will be calibrated six months apart from first one to assure that one is working and in calibration. This will easily give six months to resolve any problems that may arise.
- b. Secondly, a consultant was hired to help trouble shoot technical problems with the equipment. This was done in September 2001 to help correct the technical problems that I was unable to understand and resolve.

4. Date of full compliance (purchase of a second wipe counter) will be in August 2002.

Sincerely,



Elba Orduña-Acúm, MD