

April 18, 2003

James Sharkey  
President  
Linac Systems, Inc.  
950 Airport Road  
Lakewood, NJ 08701

SUBJECT: NRC OFFICE OF INVESTIGATIONS (OI) REPORT NO. 1-2002-036

Dear Mr. Sharkey:

This refers to an investigation conducted by the NRC Office of Investigations (OI) regarding the circumstances surrounding the possession and transfer of a Varian 6/100 linear accelerator from York Hospital, York, PA, to Linac Systems, Inc. in March 2001. This linear accelerator contained 300 kilograms of NRC licensed depleted uranium (DU) as shielding. The OI investigation was initiated to determine whether York Hospital personnel knowingly transferred the linear accelerator containing DU to an unauthorized recipient. OI concluded that York Hospital transferred the linear accelerator to Linac Systems without confirming that your company possessed an NRC license or authorization; however, OI did not substantiate that York Hospital personnel did so with knowledge that it was a violation of NRC regulations. A synopsis of the investigation report is enclosed with this letter.

As a result of the investigation, it appears that you took possession of approximately 300 kilograms of DU in March 2001 without the required license from the NRC. In August 2001, you subsequently transferred the DU material to RT Technical Services in Alvarado, Texas. RT Technical Services possessed a general license from the State of Texas authorizing receipt and possession of the DU material as shielding in a linear accelerator (registration #R23952). Representatives from the NRC explained to you during the investigation that an NRC license was required to possess source material (DU). If your company were located in an Agreement State (New Jersey is not currently an Agreement State), authorization could also be required from the State.

NRC regulations permit the issuance of civil sanctions to companies who possess source material without a license. In this case, the NRC has decided not to take enforcement action against your company because you are not an NRC licensee, you did not have knowledge of the regulations, and the DU material was subsequently transferred from you to an authorized recipient. However, similar actions in the future could lead to formal NRC enforcement action against your company.

You are not required to respond to this letter. In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm.html> (the Public Electronic Reading Room).

If you have any questions concerning this matter, please contact Pamela Henderson at

J. Sharkey  
Linac Systems, Inc.

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610-337-6952.

Thank you for your cooperation.

Sincerely,

***/RA/ George Pangburn***

George Pangburn, Director  
Division of Nuclear Materials Safety

Enclosure: As Stated

cc: State of New Jersey

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\* Concurrence for OE per telecon with S. Merchant and J. Nick.

## Attachment

### SYNOPSIS FROM OI INVESTIGATION REPORT NO. 1-200-0036

This investigation was initiated by the U.S. Nuclear Regulatory Commission's (NRC), Office of Investigations (OI), Region I (RI), on September 19, 2002, to determine if York Hospital (YH) personnel (primarily the Radiation Safety Officer and Chief Physicist) deliberately disposed of a linear accelerator (LINAC) containing depleted uranium (DU) by improperly transferring the DU to a non-licensed entity and failing to notify the NRC of the disposal. The investigation also sought to determine if the non-NRC licensed entity was in collusion with the licensee and knowingly received the DU without having the requisite NRC license.

Based upon the evidence developed during the investigation, OI did not substantiate that YH personnel deliberately disposed of the LINAC knowing that it contained DU. Furthermore, the investigation did not substantiate that the non-licensed entity colluded with, or knowingly received the DU without possessing the NRC license.