

April 22, 2005

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
ALL TECH CORPORATION)	Docket No. 30-35321-CivP
)	
Pocatello, Idaho)	ASLBP No. 05-836-02-CivP
(Civil Monetary Penalty))	

JOINT MOTION TO APPROVE SETTLEMENT
AGREEMENT AND TERMINATE PROCEEDING

INTRODUCTION

Pursuant to 10 C.F.R. § 2.203, All Tech Corporation ("All Tech") and the Staff of the Nuclear Regulatory Commission ("Staff") respectfully submit this joint motion requesting that the Atomic Safety and Licensing Board ("Board") approve the attached Settlement Agreement, dated April 22, 2005, and terminate the above-captioned proceeding.

DISCUSSION

On December 10, 2004, following an investigation into alleged violations of Nuclear Regulatory Commission regulations at 10 C.F.R. § 30.9(a), the NRC Staff issued a "Order Imposing a Civil Monetary Penalty - \$6,000" to Richard Booth, President, All Tech Corp., finding that All Tech violated NRC regulations when it failed to provide information that was complete and accurate in all material respects.¹ Following a January 10, 2005, request for a hearing filed by All Tech, a Board was appointed on February 2, 2005. After discussions, the parties have entered into the attached Settlement Agreement. The Settlement Agreement imposes specific corrective actions above and beyond those required to bring All Tech into compliance with NRC regulations, imposes

¹ See In the Matter of All Tech Corporation, Pocatello, Idaho; Order Imposing Civil Monetary Penalty, 69 Fed. Reg. 76019 (December 20, 2004).

a civil monetary penalty of \$1,000, and provides that both parties will support this request for approval of the Settlement Agreement and termination of the above-captioned proceeding.

CONCLUSION

Inasmuch as the parties have determined to settle the matters at issue in this proceeding and such settlement is in the public interest, the parties request that the Board approve the attached Settlement Agreement and terminate the above-captioned proceeding.

Respectfully submitted,

/RA/

Tyson R. Smith
Counsel for NRC Staff

/RA by Tyson R. Smith for/

Richard E. Booth
President, All Tech Corp.

Dated at Rockville, Maryland
this 22nd day of April, 2005

April 22, 2005

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
ALL TECH CORPORATION)	Docket No. 30-35321-CivP
)	
Pocatello, Idaho)	ASLBP No. 05-836-02-CivP
(Civil Monetary Penalty))	

SETTLEMENT AGREEMENT

On December 10, 2004, following an investigation into alleged violations of Nuclear Regulatory Commission regulations at 10 C.F.R. § 30.9(a), the NRC Staff ("Staff") issued a "Order Imposing a Civil Monetary Penalty - \$6,000" to Richard Booth, President, All Tech Corp., ("All Tech") finding that All Tech violated NRC regulations when it failed to provide information that was complete and accurate in all material respects. See In the Matter of All Tech Corporation, Pocatello, Idaho; Order Imposing Civil Monetary Penalty, 69 Fed. Reg. 76019 (December 20, 2004).

Following a January 10, 2005, request for a hearing filed by All Tech, a Board was appointed on February 2, 2005. The parties to the above captioned proceeding, the Staff and All Tech, have engaged in negotiation and agree that it is in the public interest to terminate this proceeding without further litigation, subject to approval of the Atomic Safety and Licensing Board.

NOW THEREFORE, IT IS STIPULATED AND AGREED AS FOLLOWS:

1. All Tech violated 10 C.F.R. 30.9(a) when its employee failed to provide information to the NRC that was complete and accurate in all respects. All Tech agrees that it is responsible for the acts of its employees under its NRC license.
2. The Staff determined All Tech has subsequently taken appropriate corrective actions to address the violation and that the violation in and of itself posed no threat to public health

and safety.

3. All Tech agrees to undertake the following additional corrective actions:
 - a. Implement a company policy that the Radiation Safety Officer (RSO) and General Manager shall not be the same individual.
 - b. Designate a new RSO and substitute RSO.
 - c. Conduct a training session on the responsibility of All Tech employees to provide complete and accurate information to the NRC.
 - d. Implement a company policy of taking disciplinary action against any employee who provides false or misleading information to the NRC. This policy shall be posted on the office bulletin board for 30 days and provided to all new employees.
4. In consideration of the items in paragraphs 1 through 3, All Tech agrees to pay a civil monetary penalty in the amount of \$1,000.
5. The Staff agrees not to take any further civil or administrative enforcement action against All Tech based on the matters outlined in the December 10, 2005, Order.
6. The requirements of this agreement may be imposed by Order at the discretion of the Staff.
7. This Settlement is limited to the above captioned civil proceeding.
8. The parties shall jointly move the Atomic Safety and Licensing Board designated in the above-captioned proceeding for an order approving this Settlement Agreement and terminating the above-captioned proceeding.
9. All Tech agrees to withdraw its hearing request, and further agrees to waive their rights to a hearing in connection with this matter, and waive any right to contest or otherwise appeal this Settlement Agreement once approved by the Atomic Safety and Licensing Board.

IN WITNESS WHEREOF, All Tech and the Staff have caused this Settlement Agreement to be executed by the parties or their duly authorized representatives on this 22nd day of April, 2005.

Respectfully submitted,

/RA/

Tyson R. Smith
Counsel for NRC Staff

/RA by Tyson R. Smith for/

Richard E. Booth
President, All Tech Corp.

Dated at Rockville, Maryland
this 22nd day of April, 2005

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
ALL TECH CORPORATION)	Docket No. 30-35321-CivP
)	
Pocatello, Idaho)	ASLBP No. 05-836-02-CivP
(Civil Monetary Penalty))	

CERTIFICATE OF SERVICE

I hereby certify that copies of "JOINT MOTION TO APPROVE SETTLEMENT AGREEMENT AND TERMINATE PROCEEDING" and "SETTLEMENT AGREEMENT" in the above-captioned proceeding have been served on the following by deposit in the United States mail or by deposit in the Nuclear Regulatory Commission's internal system, and by electronic email as indicated by an asterisk (*) on this 22nd day of April, 2005.

Administrative Judge*
Lawrence McDade, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: lqm1@nrc.gov

Administrative Judge*
E. Roy Hawkens
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: erh@nrc.gov

Administrative Judge*
Peter S. Lam
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: psl@nrc.gov

Richard Booth, President*
All Tech Corporation
PO Box 4728
2925 Garrett Way
Pocatello, ID 83205
Email: booassoc@ida.net

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Office of the Secretary*
ATTN: Rulemaking and Adjudications Staff
U.S. Nuclear Regulatory Commission
Mail Stop: O-16C1
Washington, DC 20555-0001
E-mail: HEARINGDOCKET@nrc.gov

/RA/

Tyson R. Smith
Counsel for NRC Staff