



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

June 14, 2005

EA No. 01-245

George E. Karsnak
President
Design Fuels Corporation
2605 O'Neil Boulevard
McKeesport, PA 15132

SUBJECT: REQUEST TO RETRACT NOTICE OF VIOLATION
(INSPECTION NO. 99990001/2000009)

Dear Mr. Karsnak:

This refers to three telephone conversations on May 5, 2005, between you and (1) with Mr. James Wiggins, Deputy Regional Administrator, NRC Region I, (2) Mr. John D. Kinneman, Mr. Daniel Holody, and Mr. Karl Farrar, NRC Region I, and (3) Mr. C. Nolan, NRC Office of Enforcement. During these conversations, you requested that we retract the Notice of Violation issued to Design Fuels Corporation (DFC) on October 9, 2001. The Notice of Violation (copy enclosed) was issued for the improper transfer of generally licensed material (a fixed nuclear gauge containing 1 curie of cesium-137) to an unauthorized location. You stated that you believe that you were treated unfairly in our review of this matter and that you were concerned that this Notice of Violation is available on the NRC's website and available to any member of the public. While you would not agree, during our telephone conversations, to provide a written basis or any information regarding your disagreement with the Notice of Violation, we agreed to review the case and provide you a written response.

The Notice of Violation was issued to DFC as an entity and not to you as an individual. Also, the NRC did not conclude any willfulness on the part of any representative of DFC. Furthermore, as a matter of practice, the NRC posts all publically available, escalated enforcement actions on its external web page. NRC escalated enforcement actions include all Notices of Violation containing Severity Level I, II, or III violations.

The Inspection Report and other documents (copies enclosed) describe the information and circumstances considered in concluding that DFC violated NRC requirements. After reviewing all the available information, the NRC maintains that Design Fuels Corporation was in violation of NRC requirements, as stated in the Notice of Violation. Although you indicated that there was no reasonable way of knowing that you were in possession of the gauges, in your recent contacts, you have provided no information that would demonstrate that DFC was not responsible for the unauthorized transfer of the gauge to the State of Alabama, or that the unauthorized transfer was not in violation of NRC requirements. Therefore, we will not make any change to the Notice and it will remain publically available on our website. If you have any additional information which you would like us to consider in this matter, you should provide it in

Certified Mail
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G. Karsnak
Design Fuels Corporation

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writing. We will consider the matter closed until and unless you provide additional written information.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

Original signed by George Pangburn

George Pangburn, Director
Division of Nuclear Materials Safety

Docket No. 99990001
(General License)

Enclosures:

1. Letter dated October 9, 2001 with Notice of Violation and Inspection Report No. 99990001/2000009 (ADAMS Accession No. ML012830322)
2. Letter dated October 15, 2001 (ADAMS Accession No. ML012920547)
3. Letter dated January 24, 2001 (ADAMS Accession No. ML010250109)
4. Letter dated April 18, 2001 (ADAMS Accession No. ML011100452)

cc:

David Allard, Commonwealth of Pennsylvania

G. Karsnak
Design Fuels Corporation

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bcc: D. Holody. ORA

DOCUMENT NAME: E:\Filenet\ML051660418.wpd

SISP Review Complete JDK

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DATE	06/01/2005		06/10 /2005		06/10 /2005		06/14/2005	
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NAME	KFarrar		JLuehman by phone		GMorell by phone			
DATE	06/10/2005		06/14/2005		06/14/2005			

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